

FRED YOUNG

MPP, YORKVIEW



2. **COMMISSION OF INQUIRY
INTO THE ACQUISITION BY THE
MINISTRY OF HOUSING OF CERTAIN
LANDS IN THE COMMUNITY OF
NORTH PICKERING**

Commissioners: The Hon. J. F. Donnelly
R. M. Grant, Q.C.
G. P. Marriott



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Ontario

PROCLAMATION

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

GREETING :

WHEREAS the Ombudsman has made a report concerning land acquisitions in the North Pickering Project;

AND WHEREAS the Minister of Housing has disputed the contents and recommendations in such report by his reply thereto dated the 31st day of August, 1976;

AND WHEREAS an agreement has been arrived at between the Ombudsman and the Minister of Housing, relative to matters in dispute which agreement was endorsed by The Select Committee of the Ombudsman;

AND WHEREAS in furtherance of the terms of such approved agreement, it is thought fit to refer certain of these matters to an Inquiry;

AND WHEREAS in and by an Act entitled "The Public Inquiries Act, 1971", it is enacted that whenever Our Lieutenant Governor in Council deems it expedient to cause inquiry to be made concerning any matter connected with or affecting

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the good government of Ontario or the conduct of any part of the public business thereof or of the administration of justice therein and such inquiry is not regulated by any special law, she may, by commission appoint one or more persons to conduct such inquiry and may confer the power of summoning any person and requiring him to give evidence on oath and to produce such documents and things as the commissioner or commissioners deems requisite for the full investigation of the matters into which he or they are appointed to examine;

AND WHEREAS Our Lieutenant Governor in Council of Our Province of Ontario deems it expedient to cause inquiry to be made concerning the matters hereinafter mentioned;

NOW KNOW YE that We, having and reposing full trust and confidence, DO HEREBY APPOINT the Honourable J. F. Donnelly, Chairman, R. M. Grant, Q.C., and G. P. Marriott, to be Our Commissioners to consider, recommend and report in relation to:

- (I) the overall merits of claims for additional compensation of
 - (a) cases placed in dispute by the reply of the Minister of Housing of the 31st day of August, 1976, to the report of the Ombudsman on the North Pickering Project,

(b) any other cases handled by any of the five agents, Applicants in the motion instituted before the Divisional Court relative to allegations of misconduct contained in the said report of the Ombudsman, such merits of claims shall include but not so as to limit the generality of the foregoing, all circumstances of each particular case including any misleading statements inadequate appraisals or misunderstandings based upon reasonable grounds in the circumstances of the particular case;

(II) where entitlement to additional compensation has been recommended in the discretion of the Commission, to determine the amount, if any, of such additional compensation, having regard for such merits and taking into account any benefit or profit derived from the use of compensation paid on the original sale between the date of such sale and the date hereof;

(III) The Commission shall also enquire into, consider and report in relation to what allegations of misconduct are made against

Terry Bortolotti

James Gilhespie

William Thompson

Joseph Kuzik

J. E. Spafford

in the report of the Ombudsman and as to whether or not such allegations, if any, are justified;

All matters referred to this Commission shall be heard and determined in proceedings of an adversarial nature. The Ministry of Housing, former land owners, present and former agents and officials of what now forms part of the Ministry of Housing will be entitled to be represented by counsel who shall be paid by the Ministry of Housing. The reasonable costs of counsel and of any appraisals required for the former land owners, shall be borne by the Ministry of Housing. Counsel for the former land owners will be appointed by the Ombudsman;

AND WE DO HEREBY ORDER that Part III of the said Act entitled "The Public Inquiries Act, 1971" shall apply to the aforementioned Inquiry;

AND WE DO HEREBY FURTHER ORDER that all Our ministries, boards, commissions, agencies and committees shall assist Our said Commissioners to the fullest extent and that, in order to carry out their duties and functions, they shall have the authority to engage such counsel, investigators and other staff as they deem proper, at the rate of remuneration and reimbursement to be approved by the Management Board of Cabinet;

TO HAVE, HOLD AND ENJOY the said Office and authority of Commissioners for and during the pleasure of Our Lieutenant Governor in Council for Our Province of Ontario.

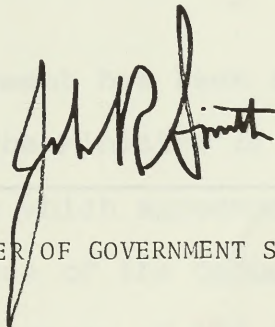
IN TESTIMONY WHEREOF We have caused these Our Letters to be made Patent, and the Great Seal of Our Province of Ontario to be hereunto affixed.

WITNESS:

THE HONOURABLE PAULINE M. MCGIBBON,
An Officer of the Order of Canada,
Bachelor of Arts,
Doctor of Laws, Doctor of University,
Bachelor of Applied Arts (Theatre),
Honorary Fellow Royal College of Physicians and Surgeons
(Canada),

LIEUTENANT GOVERNOR OF OUR PROVINCE OF ONTARIO,
at Our City of Toronto in Our said Province, this twenty-sixth
day of October in the year of Our Lord one thousand nine
hundred and seventy-six and in the twenty-fifth year of Our
Reign.

BY COMMAND



MINISTER OF GOVERNMENT SERVICES

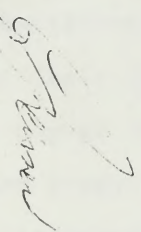
Dated Oct. 26 *S.D.* 1976
The Public Inquiries Act,
1971

Recorded this twelfth

day of September, A.D. 1977

As Number 86

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Manager,
Official Documents



Executive Council

O.C. 2959/76

Copy of an Order-in-Council approved by Her Honour the Lieutenant Governor, dated the 26th day of October, A.D. 1976.

The Committee of Council have had under consideration the report of the Honourable the Attorney General, wherein he states that,

WHEREAS the Ombudsman has made a report concerning land acquisitions in the North Pickering Project,

AND WHEREAS the Minister of Housing has disputed the contents and recommendations in such report by his reply thereto dated the 31st day of August, 1976,

AND WHEREAS an agreement has been arrived at between the Ombudsman and the Minister of Housing, relative to matters in dispute which agreement was endorsed by The Select Committee of the Ombudsman,

AND WHEREAS in furtherance of the terms of such approved agreement, it is thought fit to refer certain of these matters to an Inquiry instituted pursuant to the provisions of The Public Inquiries Act, 1971, S.O. 1971, Chapter 49.

The Honourable the Attorney General therefore recommends that pursuant to the provisions of The

Public Inquiries Act, 1971, S.O. 1971, Chapter 49, a Commission be issued to appoint The Honourable J.F. Donnelly, Chairman, R.W. Grant, Q.C., and G.P. Marriott, Commissioners to consider, recommend and report in relation to:

(I) the overall merits of claims for additional compensation of

(a) cases placed in dispute by the reply of the Minister of Housing of the 31st. day of August, 1976, to the report of the Ombudsman on the North Pickering Project;

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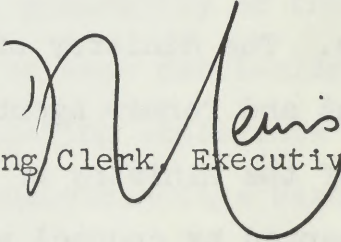
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The Honourable the Attorney General further recommends that all Government Ministries, Boards, Agencies and Commissions shall assist this Commission to the fullest extent in order that they may carry out their duties and functions and that they shall have authority to engage such staff as is deemed proper at rates of remuneration and reimbursement to be approved by the Management Board of Cabinet.

And the Honourable the Attorney General further recommends that Part III of the said Act be declared to apply to the aforementioned Inquiry.

The Committee of Council concur in the recommendations of the Honourable the Attorney General and advise that the same be acted on.

Certified,


Acting Clerk, Executive Council.



Ontario

Executive Council

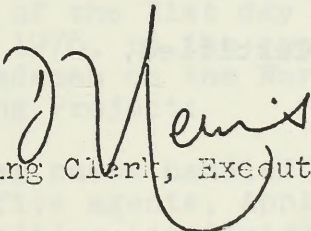
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O.C. 3545/76

Copy of an Order-in-Council approved by
Her Honour the Lieutenant Governor, dated the 22nd
day of December, A.D. 1976.

Upon the recommendation of the Honourable
the Attorney General, the Committee of Council advise
that Order-in-Council numbered OC-2959/76 dated the
26th day of October, 1976, be amended by deleting the
words "R. W. Grant, Q.C., and G. P. Marriott", and
substituting in lieu thereof the words "R. M. Grant,
Q.C., and David G. Humphrey, Q.C.".

Certified,


Acting Clerk, Executive Council.



Ontario

Executive Council

(xii)

O.C. 1389/77

Copy of an Order-in-Council approved by Her Honour the Lieutenant Governor, dated the 15th day of May, A.D. 1977.

Upon the recommendation of the Honourable the Premier and President of the Council, the Committee of Council advise that Orders-in-Council numbered OC-2959/76, dated the 26th day of October, 1976, as amended by OC-3545/76, dated the 22nd day of December, 1976, be further amended by rescinding the appointment of Mr. David G. Humphrey, Q.C., and appointing in his stead Mr. G. Peter Marriott.

Certified,

A handwritten signature in dark ink, appearing to read "P. B. Sawall".

Deputy Clerk, Executive Council.



on. J. F. Donnelly

man

Grant, Q.C.

G.P. Marriott

Commissioners

W. Hiscoke

Bar

Commission

into

North Pickering Land Sales

11th Floor

18 King Street East

Toronto Ontario

M5C 1C5

TO HER HONOUR THE LIEUTENANT-GOVERNOR OF
THE PROVINCE OF ONTARIO

May It Please Your Honour:

We, the undersigned, J.F. Donnelly, R.M. Grant, and G.P. Marriott, were appointed Commissioners by Order-in-Council No. 2959/76, as amended by Order-in-Council No. 3545/76, as further amended by Order-in-Council No. 1389/77, pursuant to the provisions of The Public Inquiries Act, 1971 S.O., Chapter 49, to consider, recommend and report in relation to:

- (I) the overall merits of claims for additional compensation of
 - (a) cases placed in dispute by the reply of the Minister of Housing of the 31st day of August, 1976, to the report of the Ombudsman on the North Pickering Project;
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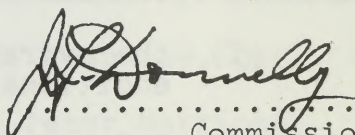
such merits of claims shall include but not so as to limit the generality of the foregoing, all circumstances of each particular case including any misleading statements, inadequate appraisals or misunderstandings based upon reasonable grounds in the circumstances of the particular case.

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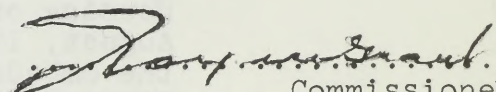
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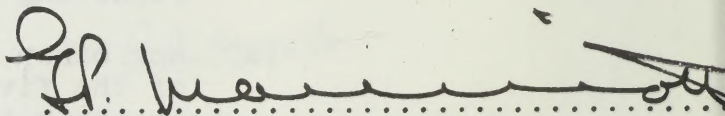
We beg to submit to Your Honour the attached Report.



 Commissioner



 Commissioner



 Commissioner

...December 5, 1977.....

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APPENDICES.

- "A" Copy of pamphlet entitled "Land Acquisition for the New North Pickering Community
- "B" North Pickering Community Development Project Newsletter Vol. I, nos. 1, 2, 3, 4
- "C" Advertisement in "Globe & Mail" and "Toronto Star" of June 24 and 27, 1977 relating to hearing on June 28, 1977
- "D" Copy of Notice of Resumption of Hearings on August 3, 1977
- "E" Advertisement in "Globe & Mail" and "Toronto Star" of July 13 and 20, 1977 relating to resumption of hearings on August 3, 1977
- "F" Copy of Notice of Resumption of Hearings on November 7, 1977
- "G" Advertisement in "Globe & Mail" and "Toronto Star" of October 14, 1977 relating to resumption of hearings on November 7, 1977
- "H" Letter from Commission to Ombudsman of October 6, 1977
- "I" Letter from Ombudsman to Commission of October 17, 1977
- "J" Letter from Ombudsman to Mr I.G. Scott, Q.C. of October 25, 1977
- "K" Letter from Mr I.G. Scott, Q.C. to Ombudsman dated October 28, 1977

INTRODUCTION

On March 2, 1972, the Honourable W. Darcy McKeough made the following statement in the Ontario Provincial Legislature:

Mr. Speaker, I am pleased today to make a statement about a subject I know is of intense interest to all members of the House and to citizens throughout Southern Ontario.

I am today announcing two major steps in the implementation of the Toronto-centred Region Plan. First, the Governments of Canada and Ontario are, at this time, making a joint announcement of the site of a new International airport for the Toronto region. Secondly, in order to ensure that the airport is effectively integrated into the proposed community structure east of Toronto, the Province will acquire approximately 25,000 acres in the vicinity of the airport -- land that is crucial to the development of integrated service, transportation, recreation and community facilities.

Legislation will be introduced this afternoon by my colleague the Attorney General, to permit this development to proceed as a co-operative venture with the Federal Government for the purposes of The Expropriation Act of Ontario.

At this time, Mr. Speaker, a statement is being made in the House of Commons by The Honourable Donald Jamieson, Minister of Transport, which has been concurred in by the Government of Ontario and which shall be considered a joint announcement of the two Governments. This announcement is as follows:

The Government of Canada and the Government of Ontario have agreed that a new major airport will be located in Pickering Township just to the northeast of Toronto. The site is roughly between a line just north of Highway 7 in the south, north to the Uxbridge/Pickering Township boundary and between the Little Rouge Creek on the west and East Duffin Creek on the east. As a co-operative venture, land will be acquired by the Federal Government for the airport site and by the Provincial Government for the immediate surroundings.

The choice of a site northeast of Toronto has come after an exhaustive Federal-Provincial evaluation since 1968 of 59 potential airport sites in the area within a 50-mile radius of Metropolitan Toronto.

It has now been decided that for a number of compelling reasons, the Pickering Township site is more suitable than any of the other sites studied. In the first place, it is an excellent site, consistent with safety and other aeronautical considerations.

Secondly, it is also the closest site to Toronto of all the proposed sites and, therefore, provides the easiest accessibility.

Thirdly, because it is reasonably close to Lake Ontario and to a number of major transportation arteries leading out of Toronto, investment in water, sewage, and transportation access facilities will be less than other sites.

Fourthly, even though it is close to Toronto, population in the immediate vicinity of the new airport is small. No major communities will be seriously affected by expropriation or very high noise levels and the environmental impact is minimized.

Finally, and in many respects most important, the location of the airport east of Toronto is the result of joint Federal-Provincial effort to provide a major stimulus to development east of Metropolitan Toronto, as called for in the Toronto-centred Region Plan.

The southern part of the airport site lies along the route of a series of proposed urban communities to the east of Toronto, which will be separated from existing Lakeshore urban centres by a series of multi-purpose transportation, service and recreation corridors. The Government of Ontario has been redesigning the shape and location of some of these proposed communities in order to take account of the airport location and to ensure that areas which could be affected by uncomfortable noise levels are not slated for residential development. Transportation and service access facilities are also being designed so that the airport will be on a rapid-transit line linking the new communities east of Toronto to Metropolitan Toronto and Malton. The proposed parkway belt and service corridors are also being designed to serve as a separator between the airport and the airport-related community and the existing urban centres along the Lakeshore.

The airport site itself is in the neighbourhood of 18,000 acres. The initial role of the airport will be to provide a variety of services, including international, scheduled and charter operations, thus complementing on a rational basis services at Malton and relieving congestion at Malton.

In addition to providing a new national major airport site, it will also be an integral part of an air system for the Toronto region, and will ensure the provision of efficient and adequate air services, minimizing the problems of noise and air pollution. The land acquisition will begin immediately and the opening date for the first airport activities is planned for 1978-79. Flexibility in the scale and time of expansion is a designed feature of the new airport system.

The Governments have agreed that serious consideration will be given to the utilization of the existing Toronto Island Airport for short takeoff and landing (STOL) aircraft as this technology develops.

The Federal Government is today filing notice of intention to acquire, in accordance with its new Expropriation Act, all the land required for the airport site itself.

The Provincial Government is introducing legislation today related to the acquisition of land in the vicinity of the airport which will be crucial to the orderly provision of service and transportation access to the airport and the development of the planned community associated with the airport.

The Provincial Government will ensure by a number of actions that land use in the airport vicinity is compatible with airport operations and with the regional planning concept. Land exposed to aircraft noise and areas being substantially influenced by urban growth pressures generated by the airport will be controlled by the Minister of Municipal Affairs.

Agreement has been reached in principle between the two Governments on the sharing of many of the expenditures associated with the airport development. A portion of the land acquisition by the Province will be carried out through funding arrangements under a variety of joint endeavours.

Generally speaking, it has been agreed that the Federal Government will be responsible for on-site costs of airport projects as well as relocation costs resulting from the displacement of services. The Provincial Government will assume responsibility for the provision of basic services such as water and sewage to the boundaries of the airport. Federal assistance may be provided to a certain extent through existing programs. The two Governments have agreed to study the implications of mass transit and other transportation

facilities related to airport development, with a view to working out joint financing arrangements. This is, in fact, a continuation of work now going on in the Toronto area.

To study this and other related co-operative aspects of implementation, the Federal Government and the Government of Ontario have agreed to establish a Federal-Provincial Committee to make recommendations to their respective Governments.

The implementation of the airport project will require close collaboration among all three levels of Government. Obviously, the Federal Government will have basic responsibility for the development on the airport site itself. The Province has the prime responsibility in co-operation with the area municipalities, for the implementation of development off the airport site. The municipalities will be informed immediately of the implications for them and discussions will begin on the establishment of machinery to ensure that they are effectively involved in the implementation process.

Mr. Speaker, that completes the joint announcement, but I would like to add some comments that I feel are of particular interest to Ontario, particularly to people living within the Toronto-centred region. The development concept for the Toronto-centred region was unveiled by the Government of Ontario in May, 1970. This concept envisaged a structured urban system between Hamilton and Bowmanville, consisting of two tiers of urban communities separated by a series of service and recreational corridors. Within this area a high priority was given to the stimulation of growth to the east of Metropolitan Toronto.

In my Budget statement of last April I announced the Government's decision to endorse the principles of the Toronto-centred region concept as a guideline for whatever decisions the Province may make that would affect the Toronto-centred region.

Public reaction to the Toronto-centred region plan has been overwhelmingly favourable to the general concept. Some 200 briefs and submissions were received from Regional Development Councils, Municipalities, Associations and private citizens and some 50 public discussions and presentations were held. A number of specific criticisms were received and many of these are being incorporated into the plan as it becomes more refined and comprehensive.

I am happy to say that public reaction obtained through these discussions and submissions has been particularly favourable to the proposals for channeling development east in the highly urbanized core of the regions along Lake Ontario, for preserving a large area of low population density north of this urbanized core and for stimulating growth to specific areas beyond commuting distance from Metropolitan Toronto.

After analysis of the initial public reaction, the Government released a status report on the Toronto-centred region in August 1971. This report announced a number of specific refinements which had been made to the original concept and revealed a number of specific decisions which had been made on individual development proposals. Included in the status report was the following reference to a proposed new international airport for the Toronto region:

"We believe strongly that the location of the (second international) airport can be a major stimulus to the development of the region, and that its location should not be dependent solely on the current direction of population trends."

Mr. Speaker, such a stimulus to development can have favourable and far-reaching effects not only on the region but on the entire eastern sector of southern Ontario. The airport will encourage growth of urban centres further east, and these in turn will bring welcome prosperity to parts of Ontario that have not shared in the Province's overall growth.

With that background in mind, you will recall that the Government of Ontario is seeking ways to restructure the municipalities to the east of Metropolitan Toronto. One of the vital decisions to be taken is the delineation of the eastern boundary of Metropolitan Toronto. This Government believes that it would be a mistake if there were to be a major annexation to the east of Metropolitan Toronto. And therefore no expansion of Metropolitan Toronto is contemplated at this time.

The vitality of a new governmental structure, once it is established, will be dependent in part on the dynamically growing areas now within Pickering Township. Obviously, the growth of these areas will be greatly stimulated by the airport location.

In the meantime, the Province wishes to work very closely with Pickering Township in the first place and with all of the other Municipal Governments in that region which will be involved in planning the provision of services and facilities related to the airport.

Acceptance by the Province of prime responsibility for ensuring the implementation of airport-related activities outside the airport site itself requires the establishment of a full-time implementation team. Mr. Larry Forster, who has until now been Regional Director of the Department of Transportation and Communications for North-western Ontario, will be the Chief of the Implementation Team. He will be assisted by a small full-time staff, as well as by staffs seconded for varying periods from the involved Departments and agencies of the Provincial Government. The Implementation Team will of course work closely with the Team refining the Toronto-centred region concept and with the Federal and Municipal bodies responsible for particular activities.

Overall responsibility for co-ordination of Provincial activities associated with the implementation of the airport site will rest with my Department.

Obviously, there are still many questions remaining to be resolved on the planning of the airport development and the specific financial and other responsibilities of the Governments involved. We are establishing a joint Federal-Provincial Committee to deal with any of these questions. Meanwhile, I have exchanged letters with Mr. Jamieson, the Federal Minister of Transport, containing an agreed annex of understanding. I am tabling these letters and a copy of the agreed annex to place on record the agreements made between us concerning the responsibilities to be carried out by our two Governments.

This afternoon, Mr. Jamieson is making some remarks relating to a further study of airport facilities for southwestern Ontario. As the joint announcement mentioned, the new airport is part of an air transportation system for all southern Ontario. The established airport at Malton, of course, will remain a major component of this system. As a potentially specialized component of this system, the Toronto Island Airport will become the subject of a joint study by the Ontario and Federal Governments. This study will pay particular attention to the Island Airport's potential as a base for STOL -- short take off and landing -- aircraft. In any case, the continued use of the Island Airport will make development of Harbour City impossible.

No announcement of a project of this magnitude would be complete without reference to some of the more important investigations and studies which have preceded this announcement.

In one of the most important and contentious areas of investigation, our Department of the Environment conducted a study to determine what impact an airport operation would have on the surrounding area. This study encompassed such considerations as air quality, vegetation, wildlife, soil, water, minerals and open space -- in short, virtually every natural resource of the area.

As well, the effects of the noise to be generated by the airport were studied in relation to this location. The site proved to be sufficiently removed from existing and proposed urban centres so as to pose no serious problems

from the noise to be expected from day-to-day airport operations.

The new airport will have many, long lasting effects on the municipalities in the Toronto-centred region area, particularly those in the eastern and northeastern sector.

Apart from the increased opportunity for realizing the growth and urban structure objective set out in the Toronto-centred region concept, many additional advantages will accrue in terms of increased employment opportunities and the tremendous potential for strengthening the economic conditions within the municipalities.

However, Mr. Speaker, it must be realized that the airport and the economic activities generated by it will also create growth pressures which, if not properly handled, can seriously threaten and impair the economic health, and the social and physical environment of those municipalities lying close to the new airport. Municipalities that have, to this point, been confronted with relatively slow growth will be subjected to vast pressures on every side to approve more land severance applications, to support urban subdivisions, to amend their by-laws to permit an intensification of development. Such municipalities as Pickering, Markham, Whitby and East Gwillimbury which are already subject to substantial pressure to develop will have these pressures greatly intensified.

Some of the municipalities that will be influenced by the airport's development are already equipped with land-use policies, in the form of official plans and zoning by-laws supported by permanent staffs who will be able to consider the new situation and to recommend suitable alterations in these policies where they are found to be inadequate. Some of the municipalities, however, will have great difficulty in adjusting in sufficient time to accommodate themselves and their policies to the rapidly developing pressures which will be exerted on them.

While the standard of readiness of municipalities within the region varies greatly they all have one thing in common. None contemplated the establishment of the airport in the development of their growth strategies.

To assist municipalities in adjusting to these circumstances it is the intention of this Government to take the following actions in the immediate future:

First, to meet with each of the municipalities to discuss with them the impact of the airport and to consider changes which will be required in their development policies.

In this connection there are representatives of the municipalities in the galleries today. I am now pleased to invite them to come to a joint press conference today at 5 o'clock in the Main Terminal Building at Malton Airport, where the Federal Minister of Transport and Ontario Ministers will be answering questions from the press.

Second, to allocate experienced staff who will be able to work with the municipalities in making the necessary adjustments.

Third, to act under the provisions of Section 32 of The Planning Act, to establish Minister's Zoning Orders, on those situations where the growth pressures are greatest and where the capability to react to these pressures is less than required in the circumstances. Special attention will be given to those situations where high noise levels are expected. Where land use policies are inadequate or non-existent and in critical areas close to the airport.

Until the full implications of the airport have been considered, this Government will exercise its powers as they pertain to official plans and will decline to approve any applications that propose residential development in areas which may be subjected to excessive noise levels from the airport. These policies have been successfully applied in dealing with new growth around Malton. We intend, of course, to continue to deal with applications within the criteria established by the Urban Development in Rural Areas Policy (U.D.I.R.A.) and the

concepts expressed in the Toronto-centred region concept.

The Minister's Orders referred to earlier may appear unduly restrictive but I indicate that they are short term in nature and will be modified as soon as the full implications of the airport decision have been assessed in conjunction with the municipalities. I am quite prepared to remove the Orders as has been done in other parts of the Province, as soon as the local by-laws and official plans have been readjusted.

We do not want to create problems for owners of individual parcels which may have been held for some time and we are quite prepared to consider amendments to the Orders to relieve exceptional hardships. However, let me reiterate that it shall be our objective to keep residential development to a minimum within the areas of potentially high noise levels and immediately around the airport lands.

As you know, Mr. Speaker, the Regional Municipality of York is preparing an Official Plan as required by the Act establishing that municipality. The Plan is required to be prepared in 1974. Fortunately, the state of the work done on the Plan is still at a sufficiently early stage to take the impacts of the airport into consideration. This work being done by the Regional Municipality will be of tremendous assistance to the individual municipalities and the Province in re-aligning land-use policies in the light of the airport development.

Mr. Speaker, from time to time no one has been more critical of Federal policies than the Treasurer of Ontario. However, today I am happy to acknowledge the results of this form of joint planning.

In an effort to inform the landowners affected by the project, which became known as the North Pickering Community Development Project, the Ministry distributed

pamphlets, newsletters, and newspaper supplements and invited the owners to attend meetings held in the area so that they might be informed of their rights and the intention of the government. A copy of the pamphlet "Land Acquisition for the New North Pickering Community" forms Appendix "A", and a copy of the first Newsletter, Vol. 1, nos. 1, 2, 3 & 4, Appendix "B". The pamphlet contained the following information:

"DO YOU HAVE ANY FURTHER QUESTIONS?"

Members of the North Pickering Community Development Project Team will be pleased to answer further questions if they possibly can.

Please inquire at the team's Pickering office on Brock Road. Telephone 942-7611

Regarding Appraisals: Mr. Doug Sauder
Regarding Negotiations: Mr. Roy Booth

HOW DOES THE ONTARIO GOVERNMENT
PROPOSE TO TAKE OVER MY PROPERTY?

The first step, already under way, is appraisal. A fully qualified, professional appraiser, hired from the private sector especially for this project, will call on you and ask permission to inspect your house and property. Before admitting him to the premises, you should ask for his credentials. He will be carrying an official Ontario government identification card with his picture, to show that he is a legitimate representative of the North Pickering Community Development Project.

The appraiser you meet will be happy to discuss with you any of the questions that might bear on the appraisal he is making. Your house or land may contain certain features that make it worth more than a house of similar size and

condition elsewhere, and you should feel free to point these features out to him. The appraiser will be estimating the market value of your property - that is, the gross amount you would receive if it were offered for sale on the open market. One thing the appraiser will not be at liberty to discuss with you is the price he intends to suggest, and you should not interpret his response as a lack of frankness or sympathy with your situation.

HOW WILL AN OFFER BE MADE?

A knowledgeable and experienced negotiator will arrange to visit you, at your convenience. Like the appraiser, he will carry official identification. This negotiator will willingly discuss all aspects of the sale with you and will offer you the appraised value of your property. One thing he will not discuss, however, is the price that has been paid or is being offered to other property owners in your area. This policy will be observed scrupulously, to protect each owner's personal privacy. (It is your privilege, of course, to reveal the price to others if you wish to.)

The government's offer to purchase will be presented to you in writing. If you are willing to close the transaction, the negotiator will make all the necessary arrangements. You can expect the closing process to take about 60 days - the normal period for residential purchases. At this point you will receive a cheque as payment in full of the agreed amount.

WHO WILL PAY MY LEGAL FEES?

The government will pay for all reasonable legal expenses entailed in the negotiation and sale of your property, and in most cases there will be no real estate fee to pay. (The exception would occur if you were already obligated to a real estate company that had listed your house previously.)

WHAT IF I DON'T LIKE THE PRICE
I AM OFFERED?

You are free to negotiate further. However, you should bear in mind that your house has already been carefully appraised by an expert who has drawn on his experience in a private real-estate company. Your government negotiator, of course, will be fully aware of this during any discussion he has with you. You should also realize that the government's offer represents not the lowest price it believes you might accept but the price that an appraiser from the private sector believes is the fair market price.

WHAT IF I WANT A SECOND APPRAISAL?

If you feel it necessary to obtain second opinion about the market value of your property, you are entitled to engage anyone you choose. If you select a qualified appraiser, the government will pay any reasonable charges you incur in this way. Therefore, before engaging such a person, make sure he is properly qualified."

And the Newsletter:

"The only other new regulations are provisions to the Expropriation Act under which the provincial government will not have to pay for any land-price inflation that may occur as a result of the decision to locate the airport in Pickering. Provincial authorities emphasize that there are no regulations freezing prices or restricting buying and selling."

Mr. Larry Forster was appointed Project Director with a staff which included the five land acquisition agents named in the Order-in-Council. Appraisers were engaged to

appraise the properties to be acquired. When the appraisals were completed, they were reviewed and examined by the Supervisor of Appraisals and the Supervisor of Acquisitions. After the reviews were completed, they were forwarded to the Chief of the Acquisition Group, who would assign them to acquisition agents, who would be given a listing sheet and a copy of the appraisal. Before the negotiations with the landowners were commenced, the agents attended a training program and were instructed as to how they should approach the owners and the facts relevant to the property with which they were to negotiate. A brochure and newsletter were forwarded to the owners in the area and they were invited by mail to attend meetings at Cherrywood, Brougham and Whitevale, where they could obtain information in regard to the Project and make such inquiries as they wished.

After a large number of properties had been acquired through negotiation, the Honourable Robert Welch, Provincial Secretary for Social Development and Minister of Housing, made an announcement on January 10, 1974, in which he said:

"I am announcing today a number of significant changes in the Province's approach to the North Pickering Project, particularly with regard to the existing hamlets and increased emphasis on agricultural production in the area and the designation of an open space system within the planning boundaries. As many of you already know, the government's original intention was to acquire the total of 25,000 acres by negotiating settlements or expropriation. I wish to announce today that this

Reduction

'policy has been amended to reduce the total land acquisition by almost one third to exclude from public acquisition the hamlets of Locust Hill, etc. and substantial sections of the western and southern extremities of the Project site are to be designated as open space areas. The total size of public acquisition area referred to as the inner planning area has now been reduced to approximately 17,000 acres about 2/3 of the total Project. As of last week the Province has already acquired by negotiating settlement 53% of the properties and 49% of the acreage encompassed within the reduced area.'

The Minister went on to add the following:

'It is now necessary to proceed with the acquisition of the remainder to assist us in evolving and implementing a balanced and staged approach to planning in the area for the rest of the century; otherwise, it is feared that the development could take place without proper co-ordination as a response to individual development proposals within the six municipal jurisdictions involved. In order to complete public acquisitions in the manner which will prevent this likelihood which will be equitable to all the property owners and which will enable the Province to move ahead with an unprecedented opportunity for comprehensive planning, I am announcing today a decision to expropriate all of the properties not yet acquired within the inner planning area.'

The Minister also announced that the Lieutenant-Governor in Council under section 6(3) of The Expropriations Act had considered it necessary in the public interest that expropriations proceed without an inquiry procedure. It was also announced that in case the individuals in the area would not agree to a fair price being paid to them they would have access to a Board of Negotiations and a right of hearing before the Land Compensation Board of Ontario."

Commencing on May 23, 1975, the Ombudsman received complaints from twenty-three of the former landowners about the treatment they had received in the acquisition of their lands. He began an investigation. This was shortly enlarged to cover not only the parties who had complained, but all facets of the land acquisition process in the Project. Numerous interviews were conducted and the files found in the North Pickering offices were examined. Among those interviewed was a "test group" of thirty-seven former landowners who had not complained and who were chosen at random by the investigators. Of these, twenty-seven of the thirty-seven questioned felt generally the same as the original complainants. In March, 1976, three of the Project's senior officials and all available acquisition agents were requested to attend at the offices of the Ombudsman where they were asked general and specific questions. The questions and answers were recorded by a shorthand reporter. Summaries of the interviews of the complainants, twenty-seven of the thirty-seven in the test group, and of the Project officials and agents are included in the Report.

The four Appraisal Supervisors employed on the Project were interviewed as to their experience, instructions received, and other matters concerning their work on the Project. Nine appraisers were interviewed. Appraisal reports and other documents were examined.

The Report of the Ombudsman, including his reasons therefor and recommendations concerning the North Pickering Project to the Honourable the Minister of Housing of Ontario, dated June 22, 1976, was questioned by the Minister in a

letter to the Ombudsman. The Report was referred to the Select Committee on the Ombudsman. At the direction of the Select Committee, discussions took place between the Minister of Housing and the Ombudsman concerning his Report. As a result of these discussions, an agreement was arrived at between them and concurred in by the Select Committee. This reads:

"As a result of a direction by the Select Committee on the Ombudsman, discussions took place between the Minister of Housing and the Ombudsman concerning the Ombudsman's Report on the North Pickering Project.

As a result of these discussions, an agreement has been arrived at between them and has been concurred in by this Committee. The solution that has been agreed to is based on the following formula:

- 1) The cases disputed in the Minister of Housing's reply of August 31st, 1976 and any other cases where the negotiations were handled by one of the five Applicants to the Motion presently before the Divisional Court will immediately have their cases dealt with by a Commission consisting of some members of The Land Compensation Board, Judicial, and/or Senior legal persons.

This Commission is to be set up by Order-in-Council under The Public Inquiries Act, 1971 so as to avoid any delay which might result if the matters were to go directly to The Land Compensation Board and the enabling legislation that might be required.

The Commission so appointed will be empowered to consider

in the first instance the over all merits of the claims for additional compensation of the former land owners. In making this determination the Commission shall be empowered to take into account all the circumstances of each particular case, including but without limitation, any misleading statements, inadequate appraisals, or misunderstandings based upon reasonable grounds in the circumstances of the particular case.

The Commission shall determine what allegations of misconduct are made against the five Applicants to the Motion presented before the Divisional Court in the Report of the Ombudsman and whether they are justified. Secondly, the Commission shall be further empowered to determine the amount of additional compensation to be paid to the former landowners in the cases where entitlement has been established. In making this determination, the Commission shall take into account any benefits or profits derived from the use made of the compensation paid on the original sale.

- 2) The balance of the 44 cases named in the Ombudsman's Report and additional complaints lodged with the Ombudsman relating to the North Pickering Project totalling approximately 55 to date, will be dealt with in the following manner:

The Ombudsman will re-open the investigation into the merits of the balance of the 44 cases. In all of these cases and any new cases coming before the Ombudsman, the Ombudsman will

conduct a hearing pursuant to Section 20(2) of The Ombudsman Act, 1975.

The Minister of Housing has undertaken to accept the Ombudsman's recommendation in relation to the aforementioned cases and, where appropriate, to refer immediately any such cases to the Land Compensation Board. The Land Compensation Board in dealing with these cases, shall only determine the amount of compensation to be given, taking into consideration any benefits or profits actually derived from the use made of the compensation paid on the original sale.

In view of the fact that under this solution the merits of all of the cases will be determined by proceedings of an adversarial nature, it is understood that the Motion presently before the Divisional Court will be discontinued by the Applicants.

John Sopinka, Q.C., on behalf of the five Applicants to the motion presently before the Divisional Court was consulted by the Ombudsman and the Minister of Housing in this regard and concurs on behalf of his clients.

It is agreed that the former landowners and present and former agents and officials of the Ministry of Housing will be entitled to be represented by counsel and it is further agreed that the reasonable costs of such counsel will be borne by the Ministry of Housing as will the costs of any appraisals required. Counsel for the former landowners will be appointed by the Ombudsman.

The Select Committee endorses the agreement between the Ombudsman and the Minister of Housing and urges that it be implemented forthwith and will so report to the House. Apart from preparing this formal report to the House, the proceedings of this Committee on the Ombudsman's Report on the North Pickering Project are concluded."

Order-in-Council 2959/76 was passed on October 26th, 1976. It provided:

"The Honourable the Attorney-General therefore recommends that pursuant to the provisions of The Public Inquiries Act, 1971, S.O. 1971, Chapter 49, a Commission be issued to appoint The Honourable J.F. Donnelly, Chairman, R.M. Grant, Q.C., and G.P. Marriott, Commissioners, to consider, recommend and report in relation to:

- (I) the overall merits of claims for additional compensation of
 - (a) cases placed in dispute by the reply of the Minister of Housing of the 31st day of August, 1976, to the report of the Ombudsman on the North Pickering Project;
 - (b) any other cases handled by any of the five agents, Applicants in the motion instituted before the Divisional Court relative to allegations of misconduct contained in the said report of the Ombudsman;

such merits of claims shall include but not so as to limit the generality of the foregoing, all circumstances of each particular case including any misleading statements, inadequate appraisals or misunderstandings based upon reasonable grounds in the circumstances of the

particular case.

- (II) Where entitlement to additional compensation has been recommended in the discretion of the Commission, to determine the amount, if any, of such additional compensation having regard for such merits and taking into account any benefit or profit derived from the use of compensation paid on the original sale between the date of such sale and the date hereof.
- (III) The Commission shall also inquire into, consider and report in relation to what allegations of misconduct are made against

Terry Bortolotti; James Gilhespie;
William Thompson; Joseph Kuzik;
J.E. Spafford

in the Report of the Ombudsman and as to whether or not such allegations, if any, are justified.

All matters referred to this Commission shall be heard and determined in proceedings of an adversarial nature. The Ministry of Housing, former landowners, present and former agents and officials of what now forms part of the Ministry of Housing will be entitled to be represented by counsel who shall be paid by the Ministry of Housing. The reasonable costs of counsel and of any appraisals required for the former landowners shall be borne by the Ministry of Housing. Counsel for the former landowners will be appointed by the Ombudsman."

PROCEEDINGS BEFORE COMMISSION

On November 4, 1976, the Commission met with counsel for the claimants (the former landowners), counsel for the Ministry of Housing, and counsel for the five acquisition agents at 10 King Street East, Toronto, to determine who should be heard at the inquiry and to settle the general procedure to be followed. Ian Scott, Q.C., stated that he had been appointed by the Ombudsman to act on behalf of 29 former landowners in the North Pickering Project. He intended to convene a meeting of those parties about November 12th to determine which owners wished to pursue their claims at the Inquiry and whether they wished him or other counsel to represent them.

It was pointed out to counsel that the matters referred to the Commission were to be heard and determined in proceedings of an adversarial nature and they were invited to discuss which party should first lead evidence. Counsel for the claimants contended that the Ministry of Housing should have the carriage of the proceedings and should commence with evidence of the overall scheme of land acquisition adopted by the Ministry and its methods of implementing the scheme. He adopted the position that the scheme and methods of land acquisition and appraisals may themselves have been inherently unfair and, therefore, a proper subject of inquiry. He submitted that after the Ministry had been heard the Commission

should hear the claimants, followed by the acquisition agents. This submission was renewed at the hearing on January 24, 1977.

Counsel for the Ministry contended that the claimants were seeking relief and in a position analogous to that of an ordinary plaintiff and that they should call their evidence before the evidence on behalf of the Ministry or agents was heard. These submissions clearly indicate that counsel intended that the parties would call the evidence on which they relied.

The Commission indicated that evidence should be presented by the claimants, followed by evidence for the Ministry, and then the evidence on behalf of the agents, with the proceedings to be of an adversarial nature. The Commission expressed its desire to have the hearings commence at an early date. Counsel for the claimants stated that it would be difficult for him to adequately prepare for a start earlier than January 30, 1977. The meeting was adjourned to November 22 at 11:00 a.m.

The Commission met again on November 22 with counsel for all parties present. Mr. Scott stated that he had written retainers from twenty-four claimants, one of whom did not wish to proceed. He further advised the Commission that in order to adequately prepare his case he would require that certain investigations be carried out and that

certain documentation be produced, specifically:-

- (a) He would require two more investigators in addition to the two investigators already in his employ.
- (b) He would have to conduct five or six interviews per case and examine large amounts of documentary material.
- (c) He had written John Bell, Esq., Counsel for the Select Committee requesting permission to review the documentary evidence available to the Select Committee.
- (d) He had written Mr. Armstrong requesting the Ministry of Housing to consider paying for certain new appraisals, some of which would relate to the date of acceptance of an Offer to Purchase, and others of which would relate to the date of the Pickering expropriation, February 4th, 1974.

Insofar as the presentation of the evidence of the individual complainants was concerned, Mr. Scott said that no particular order had yet been decided on, but after he had completed his investigations, some formula for categor-

izing the claims might suggest itself, for example, all the claimants dealing with a certain land acquisition agent might be presented first.

Mr. Armstrong proposed that each case be dealt with separately on an individual basis by the Commission and that all the evidence and arguments bearing on each individual case be presented at one time in order that the Commission should completely dispose of each case as it arose.

Mr. Sopinka inquired as to the manner in which the Commission proposed to deal with the issue affecting his clients. Mr. Scott made it clear that he was retained to act for the landowners, not the Ombudsman, and it was not incumbent upon him either to adopt, or to defend the statements contained in the Ombudsman's Report.

Counsel were again advised that the Commission desired to commence the hearings at an early date and invited submissions by counsel. Mr. Scott stated that he would require until February 1st, 1977, at the earliest to carry out sufficient investigation to enable him to adequately prepare a number of his cases and that this date would be too early if he were hampered in the matter of the production of documents. After consideration, the Commission announced that the hearings would commence on January 4, 1977.

On December 22, 1976, Order-in-Council 2959/76 was amended by Order-in-Council 3545/76 which rescinded the

appointment of Mr. G.P. Marriott as a member of the Commission and appointed Mr. David G. Humphrey, Q.C. in his stead.

At the request of counsel for the Ministry, the Commission met on December 28 at its offices at 18 King Street East, Toronto, with counsel for all parties being present. Counsel for the Ministry requested that counsel for the claimants provide him with further particulars of the claims of his clients. Counsel for the claimants contended that counsel for the Ministry had resisted his attempts to examine the files of the Ministry and that the Ombudsman had refused him access to his files. Having failed to reach agreement, counsel for the claimants wrote to the Chairman of the Select Committee requesting access to the documents in their possession, but had not received a reply. He requested that the hearing not commence on January 4, 1977, so that his request to the Select Committee might be dealt with. The Commission held that the claimants should have an opportunity of applying to the Select Committee for the production of the material in its files and, to enable them to do so, adjourned to January 24, 1977, at 10 a.m.

The Commission met on January 24, 1977, with counsel for all parties present. Counsel for the claimants stated that he was prepared to call evidence, but requested that before doing so the Commission rule on (a) the order of proceeding; (b) his right to cross-examine government employees

called by him; and (c) the introduction of documents.

On the first question he submitted that the orderly way of presenting the cases was for the Ministry to first outline to the Inquiry the scheme it had proposed and the practises it had developed for its implementation; that to be followed by the evidence of the complainants telling precisely how that had applied to them; and that to be followed by the evidence of the acquisition agents. He further contended that if the Commission ruled against him on this point, that the only other satisfactory way of proceeding was to hear all the evidence on behalf of the claimants, to be followed by the evidence on behalf of the Ministry, and the acquisition agents; that it was not possible to deal with the twenty-seven claims in twenty-seven isolated compartments. On the second question he argued that it might be necessary for him to call government employees as part of his case and that he should not be restricted to examining them in chief, but should be permitted to cross-examine them. On the question of the introduction of documents, he submitted that he should be permitted to introduce as evidence documents from government files without proof.

After hearing counsel, the Commission unanimously ruled that the claims be heard individually; that the evidence on behalf of the claimant be heard first, then the evidence for the Ministry, to be followed by the acquisition agents; that counsel was not entitled to cross-examine a witness called

by him until such witness proved to be adverse, and that it should not rule on the introduction or admissibility of a document until it was produced.

It was agreed by counsel for all parties that the Commission consider the overall merits of the claims for additional compensation and that the determination of the amount of any additional entitlement stand until the overall merits of all the claims had been dealt with.

Counsel for the claimants elected to proceed first with the claim of Mrs. Heather Dinsmore. After forty-seven exhibits had been filed and hearing part of the evidence of Mrs. Dinsmore in chief, at the request of her counsel, the Commission on January 31, 1977, stated a case in writing to the Divisional Court dealing with issues as to the admissibility of different classes of evidence.

An appeal was taken by the agents from the judgment of the Divisional Court. On April 1st the judgment of the Court of Appeal was released. April 18 was set for the resumption of the hearings. On April 14 Commissioner Humphrey submitted his resignation to the Lieutenant-Governor of Ontario. On April 18 the remaining Commissioners met with counsel for all parties, at which time counsel for the Ministry desired an opportunity to present argument that two Commissioners had authority to proceed with the hearings. Counsel for the agents requested an adjournment to April 20. Associate counsel for the claimants asked that the matter stand until the

Cabinet dealt with the letter sent on behalf of the claimants. The hearing was adjourned one week.

Pending the appointment of a third Commissioner, several further adjournments followed and, eventually, one to May 24.

By Order-in-Council of May 15, the original Order-in-Council of October 26, 1976, was further amended by rescinding the appointment of Mr. David G. Humphrey, Q.C., and re-appointing Mr. G. Peter Marriott in his stead. It was, therefore, not necessary to hear counsel on the authority of two Commissioners to proceed.

On May 17, 1977, counsel for the claimants advised the Commission by letter that his clients had instructed him to take no further proceedings on their behalf before this Commission. He further stated that his clients did not in any sense withdraw the complaints that they had made.

On May 24, the hearings were resumed. No one appeared on behalf of the claimants. The other parties were represented by counsel and the five agents were present. Their counsel urged that the decision of the claimants not to take any further part in the proceedings did not affect the rights of his clients and that the Commission should inquire into, consider and report in relation to what allegations of misconduct were made against his clients in the Report of the Ombudsman and whether or not such allegations, if any, were

justified. The Commission was of the opinion that they should have an opportunity to have this issue determined, but wished to consider further the manner in which the opportunity should be given. The hearings were adjourned sine die.

The Commission fixed June 28 at 2:00 p.m. for the resumption of the hearings and had notices of the hearings served on counsel for all parties, including the claimants. Notices of the resumption of the hearings were published in the Globe & Mail and Toronto Star. (Appendix "C")

When the hearing was resumed, none of the claimants was present or represented by counsel. After hearing counsel for the Ministry and the agents, the hearing was adjourned to August 3, at 11:00 a.m. Notice was given to each of the claimants advising that the Commission would resume its hearings on August 3, 1977, at 11:00 a.m., at Suite 1106, 18 King Street East, Toronto, to consider, recommend and report on the issues referred to it by the Order-in-Council and requesting all interested parties to attend and advising that those not attending in person or by counsel would not be entitled to any further notice of the proceedings before the Commission. (Appendix "D")

Similar notices were published in the Globe & Mail and Toronto Star on both July 13 and July 20, 1977. (Appendix "E")

On June 30 counsel for the claimants, counsel for the Ministry, and counsel for the agents were given notice of the hearing.

The Commission met on August 3, at 11:00 a.m., pursuant to the notice. None of the claimants attended at the hearing or was represented by counsel except one claimant, Mr. Vlasaty. Counsel for the Ministry urged that under the jurisdiction conferred upon the Commission by the Order-in-Council, it was charged to consider, recommend and report on the merits of the claims referred to it and to investigate, consider and report on the allegations, if any, made against the land acquisition agents, that while the claimants had withdrawn from the Inquiry, they had not withdrawn their claims and that the actions of the claimants did not excuse the Commission to decline its jurisdiction. He argued that this forum is properly constituted and that it should determine the merits of the claims of the claimants. He suggested that the Commission might subpoena the claimants or, although only one appeared that day, one would hope that the others would appear later.

Counsel for the acquisition agents took the position that the action of the claimants did not relieve the Commission of exercising the duties imposed upon it by the Order-in-Council. He contended that as the proceedings are to be of an adversarial nature, there is no duty on the Commission to conduct an inquiry into the issues relating to his clients or to bring in witnesses to support the charges of misconduct against them, that its only duty is to hear the evidence presented to it. He asked that the Commission hear the acquisition agents as to the allegations in the Report of the Ombudsman.

The Commission was informed that the Minister, the Ombudsman, and counsel had been requested to attend before the Select Committee the following day. The hearing was adjourned sine die to await the outcome of that hearing. After being advised that no solution had been reached at such meeting or subsequent discussions, the hearing before the Commission was resumed at 11:00 a.m., on September 28, 1977, pursuant to notice given to S. Vlasaty, counsel for the former landowners, counsel for the five acquisition agents, and counsel for the Ministry. None of the former landowners was present except Mr. S. Vlasaty, and none of them was represented by counsel.

Counsel for the Ministry outlined the proceedings at the meeting held by the Select Committee on August 4, which had been attended by the Minister of Housing, the Ombudsman, counsel for the claimants, the Ministry of Housing and the agents. He advised the Commission that during the discussion before the Committee, it was suggested that counsel for the former landowners, the acquisition agents, and the Ministry meet to consider whether Commission counsel should be appointed. Counsel for the parties were unable to agree and so reported to the Select Committee on August 11.

Counsel for the Ministry submitted that the Commission was then in the position where it had a very clear indication from the conduct of the former landowners and their counsel that there was really no merit in the claims that they had

advanced and that the Commission should come to that conclusion and so report.

Counsel for the acquisition agents submitted that the Commission should proceed in accordance with the previous notice sent to the former landowners and that the proceedings be concluded in their absence; also that the issue as to what allegations were made against the five acquisition agents in the Report of the Ombudsman and as to whether or not such allegations, if any, are justified should be considered without further delay. After hearing counsel, the Commission wished to consider this submission and the hearing was adjourned sine die.

At the direction of the Commission, each of the former landowners was served with a notice. (Appendix "F") A copy of this notice was delivered to the office of their counsel. A notice was published in the Globe & Mail and Toronto Star on October 14, 1977. (Appendix "G") The notice served on the claimants informed them that the Commission would resume its hearings at 10:00 a.m., Monday, November 7, 1977, at its offices, 18 King Street East, Toronto, to consider, recommend and report on the matters referred to it and that if they failed to attend in person or by counsel, the Commission would proceed in their absence.

A copy of the notice, together with a letter (Appendix "H"), was forwarded to the Ombudsman on October 6. The

letter pointed out that counsel for the former landowners had informed the Commission that "my clients are making no allegations and have never made any allegations against any individual". The Ombudsman was informed that the Commission was of the opinion that all the facts, on which any allegation against any of the agents was based, are within his knowledge and available to him. He was invited to attend the hearing and take such part in the proceedings as he might deem advisable.

The Ombudsman acknowledged the letter, (Appendix "I"), and expressed his views in regard to the determination of what allegations of misconduct are made in his Report against the five agents and his interpretation of the duties of the Commission. He further informed the Commission that he was prevented by The Ombudsman Act from complying with the invitation or request by the Commission to attend at the hearing, or take any part in the proceedings. He wrote, (Appendix "J"), to counsel for the claimants, including a copy of the letter he had received, and asking for an explanation of the quotation attributed to him. In his reply to the Ombudsman, (Appendix "K"), counsel for the claimants made it clear that he did rely on evidence that false or misleading statements had been made to his clients by land acquisition agents and alleged the statement was taken entirely out of context. The Commission fully appreciated that the claimants had proposed to lead evidence of the statements and representations made to them by acquisition

agents and to submit that some of them were false or misleading. The statement made by counsel was drawn to the attention of the Ombudsman so that he would be aware that counsel for the claimants took the position that there was no obligation on him to support any allegations against the five agents in the Report. As to whether the statement is taken out of context, the transcript of the proceedings on January 24, 1977, reads:

"MR. SOPINKA: I just have one comment which may clarify the submission made by Mr. Scott. On the matter of particulars, if I understand his answer correctly, then I am content. If he is saying that the allegations that are made against officials, agents, servants or employees I can take are all made against the land acquisition agents in question.

MR. SCOTT: I am saying that Mr. Sopinka should include himself in that paragraph.

MR. SOPINKA: I want it clear that the allegations are made against the land acquisition agents.

THE CHAIRMAN: Mr. Scott, why should Mr. Sopinka be included?

MR. SCOTT: The difficulty, Mr. Commissioner, as you will hear when we get into the evidence is that in some cases where a complainant was visited by a person representing the Government --

THE CHAIRMAN: Did Mr. Sopinka make some other statement?

MR. SCOTT: Yes, he did.

MR. SOPINKA: The question is, you meant my clients.

MR. SCOTT: The practical difficulty is that the Complainants were approached by appraisers, land acquisition agents.

THE CHAIRMAN: Would the simplest way not be to give detailed particulars?

MR. SCOTT: I have done that, sir, and I am satisfied that they are fully adequate. All I understood Mr. Sopinka to say was that he didn't know if they applied to him and what I am saying is that these Complainants, for example, dealt with people over the telephone by phoning the government offices and the person would say something. We don't always know precisely who that was.

THE CHAIRMAN: Mr. Sopinka is interested in the allegations that you allege are made by his clients.

MR. SCOTT: We have set out in each of these cases all the allegations on which we rely and I think it would be prudent of Mr. Sopinka to prepare his case against the possibility that the Inquiry may be asked to find, on the basis of evidence, that those allegations were made by his clients. They may indeed have been made by somebody else. We don't always know who is on the other end of the phone.

THE CHAIRMAN: As a principle of civil law, the person alleging misrepresentation must give definite particulars of the misrepresentation. It is part of the adversary system that where misrepresentation is pleaded, the person alleged to have made the misrepresentation is entitled to know in particularity what was said and what is alleged against him.

MR. SCOTT: Mr. Chairman, my clients are making no allegations and have never made any allegations against any individual. They say that they dealt with the Government. The Government made representations to them on which they relied. In some cases, the representations were made by an agent or by an appraiser or someone on the phone or someone else. I have no interest in fighting with Mr. Sopinka. I am not making any case against him. I am

simply saying that the Government has unfairly treated us because these representations were forthcoming.

I understand Mr. Sopinka wants to complain about certain conclusions the Ombudsman drew in his report about his clients, but I am not interested in that issue at all. I simply say that these were the things that were told to us by persons representing government and we blame not the persons who said them but the Government, and I don't want any of Mr. Sopinka's clients to hang. I simply say the Government, in allowing this to happen, has dealt with us unfairly.

I am quite certain that some of the representations that were made were innocent in the sense that the land acquisition agent did not know the reality any better than we did."

Pursuant to the notice given to all the parties, the Commission resumed its hearings on November 7, 1977. None of the landowners was present, except Mr. S. Vlasaty and Mr. J. Kellner, and none of them was represented by counsel. Counsel for the Ministry and counsel for the agents were present. Mr. Kellner was asked if he wished to present evidence. He stated that he wished to contact his counsel and was given an opportunity to do so. After consulting him, Mr. Kellner informed the Commission that he did not intend to take any part in the hearing and left. The hearing was adjourned to give Mr. Vlasaty an opportunity of consulting his counsel. He left, apparently for that purpose, and did not return.

DUTY OF COMMISSION

The Order-in-Council imposes a duty on this Commission to consider, recommend and report on the issues referred to it with such issues to be heard and determined in proceedings of an adversarial nature.

In the Order-in-Council of August 12, 1965, appointing a Commissioner in connection with the Atlantic Acceptance Corporation, the Commissioner was charged, "To investigate, inquire into and report upon."

In the inquiry into any wrongdoing or impropriety or of any improper influence being brought to bear on members of the Ontario Government or its public service on the part of officials of Waste Management Inc. etc., the Order-in-Council dated May 15, 1977, directed the Commissioner, "to inquire into....."

In the inquiry into any improper relationships between personnel of the Ontario Provincial Police and any person or persons of known criminal activity, the Order-in-Council, dated July 28, 1970, charged the Commissioner, "to inquire into and report upon...."

In the inquiry into the allegations of mistreatment of and use of excessive force towards persons apprehended, arrested or detained by members of the Metropolitan Toronto

Blice Force, the duty of the Commissioner appointed by Order-in-Council, dated October 23, 1974, was:

- "1. to inquire into recent allegations; and
2. to determine whether or not the alleged mistreatment of; and
3. to determine whether or not the use of force; and
4. to inquire into the necessity of the use of force in apprehension."

In the inquiry into Ronto Development Company, the Commissioner, by Order-in-Council of April 20, 1977, was appointed, "to inquire as to whether any undue or improper influence was brought to bear."

There was no provision for any of these issues being heard and determined in proceedings of an adversarial nature. These were the only other Orders-in-Council examined by this Commission.

On January 24, 1977, counsel for the claimants contended that the provision for proceedings of an adversarial nature was included in the Order-in-Council only to protect the agents and give their counsel the right to cross-examine the witnesses to the proceedings other than those called on behalf of the agents. Counsel for the Ministry and the agents submitted that the words should be given their usual meaning and in support of their contentions relied on section 5(a) of The Public Inquiries Act, which provides

that any person who has a substantial and direct interest in the subject matter of the inquiry may call and examine or cross-examine witnesses personally or by his counsel. Under this section the agents or their counsel would have the right to cross-examine any witness not called by them, whose evidence was relevant to their interests.

In his Reasons for Judgment on the appeal from the decision of the Divisional Court on the Stated Case, Howland, J.A. said:

"In deciding whether evidence is reasonably relevant it is necessary to scrutinize carefully the subject matter of the inquiry as set forth in Order-in-Council 2959/76. This is the governing document. The subject matter of the inquiry is broad and somewhat unusual in its nature. It comprises:

- (a) the overall merits of certain specified claims for additional compensation, including all circumstances of each particular case, which will embrace any misleading statements, inadequate appraisals or misunderstandings based upon reasonable grounds;
- (b) a determination of the amount of additional compensation which the Commission is prepared to recommend;
- (c) a report as to whether certain allegations of misconduct against the appellants are justified.

Its role is not only investigatory but requires a determination of the additional compensation that it sees fit to recommend.

The foregoing test of relevancy means that the gates will be opened quite wide in the admission of evidence. All the evidence

admitted will not, of course, be of equal probative value. It will be the task of the Commission to determine the weight which should be given the oral or documentary evidence presented to it, when making its recommendations and report.

If evidence is reasonably relevant to the subject matter of the inquiry, the Commission is not entitled to reject it as offending one of the exclusionary rules of evidence as applied in the courts, other than the rule as to privilege which is made expressly applicable by Section 11 of The Public Inquiries Act, 1971. If this were not so, it would be possible, as Morden J. points out in Re Royal Commission into Metropolitan Toronto Police Practices and Ashton, *supra* at p. 121, for the Commission to 'define its own terms of reference under the guise of evidential rulings on admissibility' and consequently to govern its jurisdiction. If the Commission has refused to admit evidence which is reasonably relevant to the subject matter of the inquiry, and is not expressly excluded by The Public Inquiries Act, 1971, or has admitted evidence which is not reasonably relevant to the inquiry, then the Commission is subject to the supervisory role of the Divisional Court on a stated case under Section 6(1) on the ground that the Commission has declined or exceeded its substantive jurisdiction.

The provision in Order-in-Council 2959/76 that 'All matters referred to this Commission shall be heard and determined in proceedings of an adversarial nature' is also of significance. An 'adversary proceeding' is defined in Black's Law Dictionary, 4th ed., 1968, as 'one having opposing parties'."

It is necessary to consider the jurisdiction conferred on the Commission by the Order-in-Council. To 'consider' means:

- to go into the question of,
- to weigh the merits of,
- to contemplate with the mind;

'Enquire into' means:

- to seek information,
- to search into a matter,
- to make an investigation.

In interpreting a document the words used must be given their usual and ordinary meaning, unless there is reason to do otherwise. Here there is no reason why the word "consider" and the words "all matters referred to this Commission shall be heard and determined in proceedings of an adversarial nature" should not be given their usual and ordinary meanings.

The Order-in-Council requires the Commission

"to consider, recommend and report
in relation to;

- (I) the overall merits....
- (II) Where entitlement to additional....
- (III) The Commission shall also inquire
into, consider and report in relation
to what allegations...."

It is necessary to consider whether the use of the words "inquire into" in the third issue imposes a different duty on the Commission than that imposed in connection with the first and second issues. The words "consider, recommend and report in relation to" preceding the issues, govern all three. After the issues are set out, the Order-in-Council directs that all matters referred to the Commission shall be heard and determined in proceedings of an adversarial nature.

No distinction is made for the third issue which is collateral to the first issue, and could be determined upon consideration of the evidence relevant to the first issue and any evidence called on behalf of the agents. If it had been intended that a different duty be imposed in respect to the third issue, the Order-in-Council would have so provided. As it does not contain any such provision, it must follow that all three issues are to be heard and determined in the same manner.

It was apparent from statements made by counsel that a thorough investigation had been undertaken on behalf of the claimants by counsel appointed by the Ombudsman and investigators paid by the Ministry of Housing, at least one of whom had been employed by the Ombudsman in his investigation; that counsel for the claimants would be prepared to call all evidence in support of the claims advanced by his clients; that counsel for the Ministry would be in a position to call all the evidence on which his client relied and that counsel for the five land acquisition agents would present the evidence relative to his clients.

Comment has been made that the Commission did not appoint counsel or engage investigators. An investigation by the Commission would have been a duplication of those made on behalf of the parties and unlikely to disclose any additional facts. Such an investigation would have entailed the unnecessary expenditure of a large sum from public funds.

The use of the word "consider", rather than "inquire", and the provision that "All matters referred to this Commission shall be heard and determined in proceedings of an adversarial nature" impose upon the Commission the duty to hear and consider all relevant evidence adduced by the parties and do not give it the jurisdiction to make an investigation in the usual manner. Any determination, recommendation or report must be based on such evidence. The Commission must not exceed or decline its jurisdiction. The decision of the claimants to withdraw from the proceedings does not increase or diminish its jurisdiction. It does not relieve the Commission of its duty to hear and determine the issue of allegations against the agents.

HEARING RELATIVE TO ALLEGATIONS AGAINST FIVE AGENTS

Counsel for the Ministry was asked if he wished to present evidence. He stated that as the evidence of Mrs. Dinsmore, which had been presented before the Commission when it was differently constituted had not been repeated before the Commission as presently constituted, he did not intend to call evidence.

Counsel for the five agents referred to the following extracts from the Conclusions and Recommendations section of the Report of the Ombudsman:

"In general we have concluded that the contentions and allegations made by those individuals who have complained to the Office of the Ombudsman indicate that, at best, the options available to the landowners in 1972 and 1973 were confusing and inconsistent. The owners appeared to

believe that they would be fairly treated by the Provincial Government through its agents and in many cases only realized with hindsight that their purposes may have been better served by refusing to co-operate with the Government and 'holding out'.

With respect to the actions of the negotiators we conclude that the inference that owners were in many cases misled and confused is unavoidable. This can be seen from statements and publications which indicated that in all probability expropriation would take place in the latter part of 1972 or at the very latest in the early part of 1973, comments recorded by acquisition agents or negotiators in their own reports, and in answers to questions posed by the Ombudsman's staff as well as those posed by Inspector W.A. Smith of the Ontario Provincial Police. In addition, knowledge of the timing of expropriation was imputed to the acquisition agents by several of their supervisors during the course of their employ in 1972. That they possessed this knowledge in some cases was clear when we questioned negotiators and their supervisors.

Mr. Robert Mason, an appraiser, advised us for instance that he believes that negotiators may have used questionable statements to induce owners to sell their property, but he thinks this is because they felt that expropriation was imminent. Mr. Hector shares this belief, on the strength of his own investigation.

The fact that at least one negotiator, Mr. Kuzik, evidently believed that the offer being made to an owner constituted the same figure that the owner could expect to receive on expropriation, has been discussed in some detail earlier in this report. Mr. Kuzik's entry in the Negotiation Report that he had advised an owner that 'if it's taken to expropriation - that's the amount it will be expropriated at' confirms his belief.

Mr. Burton Harris also advised us that owners were told that they could not expect to benefit from expropriation. He told the Ombudsman's representatives that, 'If a person refused an offer they were supposed to be threatened with expropriation and be read excerpts from the Expropriations Act, stating they would be no richer or poorer if they were.'

Another negotiator, Mr. Reginald Jones, was also of the belief that an owner would receive no more than the price he was being offered if he was expropriated. He told us that, 'As I understand, and I am sure this is what we told people, that the price they would receive on expropriation would be identical to the price that was being offered as a free choice of sale. This is what I understand was the program.' He further stated that, 'I certainly do recall explaining, you know, that there was no advantage to be gained by waiting. Now, obviously, if you didn't explain that then there was hardly any point in being there and negotiating. This was supposed to be true as it was told to us at the time....'

It is apparent that the job of the appraisal supervisors was an extremely trying one. The sheer volume of the work to be done precluded the men from examining the sites physically and yet they were required to approve appraisal reports prepared by others. Further, it is clear that these men suffered either from a lack of information or from misinformation. The fact that expropriation was anticipated by certain dates inevitably must have filtered through to the other staff members who were in contact with the property owners and it is accordingly extremely likely that negotiators gave widely divergent and contradictory information to the owners.

Although the negotiators were paid on a per diem basis and not on a commission basis, they were hired to purchase property and were intent on doing so. Their achievement could only be measured in terms of the acreage they acquired.

That the officials did not always have the best interests of the property owners in mind is evident by Mr. Ed Fisher's comments to representatives of the Ombudsman. Mr. Fisher was the third Appraisal Supervisor for the Project, from August 15, 1972, to January 1, 1973. He has advised us that in one instance a property owner was offered \$112,000.00 for a property which he himself had appraised in writing at \$235,000.00. After having conveyed his figure to the owner, he was criticized by the Project Director for having done so.

Our interrogation of Mr. Gillespie elicited his view that concurs with that of Mr. Clymer in part. He stated that, 'Ninety percent of them... wanted more money. They all wanted more. They weren't satisfied with the offer most of them. There were some problems with owners who didn't want to sell at any price, but they were a very small proportion, I think.'

We have concluded that the undue pressure, the scare tactics and resort to like devices in dealing with owners, many of whom were unsophisticated in such matters, would have left the agents of the Project open to criticism even if they were acting for private developers. When one considers that they were the representatives of a public authority -- the Ministry of Housing -- this conduct is and was truly unacceptable. The agents and officials lacked sensitivity to the needs and aspirations of respected members of the public whom they were appointed and paid to serve, not to harass.

That pressure tactics were used was made clear by many complainants. One of them put it more plainly and bluntly than the rest. Mr. R. Spittel in writing to us said that: 'An atmosphere of pressure and intimidation was generated by those involved in land acquisition along with a complete lack of sympathy towards the

situation. It became very apparent that my family could not remain either a tenant or 'hold out' under those conditions.' (See page 15 of the report).

In this connection, the description by Mr. Burton Harris of the two week seminar held for all government acquisition agents prompts me to suggest that this course of studies be given another very careful look. It will be recalled that according to Mr. Harris the instructions given related to such matters as 'how to apply pressure, socialize with the person in question, make him your friend, use expropriation threats and mention possible court proceedings'. (See page 48 of the report). It will also be recalled that Mr. Harris stated that because of tactics such as these he eventually left the Project.

To borrow the language of that section it is our conclusion that the actions of the officials and agents of the Ministry of Housing were 'unreasonable, unjust and oppressive'."

Counsel contended that these constituted allegations of misconduct against his clients.

Counsel for the agents urged that his clients be given an opportunity to answer the allegations made against them. The Commission decided to hear them.

EVIDENCE OF GILHESPIE

After filing a copy of the Report of the Ombudsman, counsel called James Ferguson Gilhespie, who was employed as a land acquisition agent for the Project and is still employed by it. He received his secondary education in England in a school equivalent to our senior high school. He has taken and passed all courses by the Appraisal Institute and attended York University from 1968 to 1970, where he took courses in Business Law, Economics I, and Man and his Environment. Prior to 1968 he was with Pearl Insurance Co. for eight years, the last five as underwriter in the Commercial, Fire and Business Law Property Department. In 1968 he became a real estate agent and in 1969 a real estate broker. He is a member of the Toronto Real Estate Board, the Ontario Real Estate Board, and the Canadian Real Estate Board. He heard the North Pickering Project was seeking Real Estate agents and applied. He was engaged as an acquisition or negotiating agent a few weeks later, at a daily rate. The number of transactions which he was able to close had no bearing on his remuneration. Of about three hundred transactions in which he was involved, he closed approximately one hundred.

At the training program he received instruction on how to approach the owners, the sections of The Expropriation Act relevant to the remuneration and compensation to which

an owner was entitled, and all relevant facts regarding the acquisition of property. He was not advised and had no idea when expropriation would take place. He was told that if he was asked about it, he should say that he did not know anything about it, had no idea when and if it would take place, also that if an owner wished a second appraisal he could select a qualified appraiser and the Government would pay the expense. Before visiting an owner, he endeavoured to contact him by telephone and arrange an appointment. When he first met an owner, he showed his credentials, explained what the Government was trying to do, informed him of the amount of the Government offer. He would read the appraisal, explain that the appraisal had been done by an independent professional appraiser who estimated the value of the property; that if he was dissatisfied, he could have a second appraisal by a qualified appraiser at the expense of the Government.

Mr. Gilhespie was involved in the following transactions which were investigated by the Ombudsman:

Florence Kerr; S. Vlasaty; Thomas & Marion Desson

Mrs. Kerr is one of the owners who complained to the Ombudsman. The summary of her complaint is at p. 7 of the Report, as follows:

"Our File Number 2472: Mrs. Florence Kerr
(17.48 acres; \$68,950.00)

Mrs. Florence Kerr, a widow, complained to us in November, 1975, that the acquisition

agent, James Gillespie, had advised her that all of the land values were frozen for two years, and that if his offer was not accepted the matter would become subject to a court decision and the price she would receive might be less. Mrs. Kerr advised us that she had complained to Mr. Gillespie that the offer made to her didn't include any compensation for the house and out-buildings on the property, and he allegedly explained to her that the government was only interested in the land so that the buildings were without value. Mrs. Kerr further advised our office that Mr. Gillespie allegedly advised her that there would be no negotiating on the price of her property. Mrs. Kerr has advised our office that she feels she has been cheated in that she was told the land prices were frozen and that she accordingly settled only to learn that other people who held out received two and three times the amount she received for her property. Furthermore, Mrs. Kerr advised us that she is now paying rent to occupy her former house and finds it difficult to understand that she must pay \$200.00 monthly for property which was considered to be without value. Mrs. Kerr feels that she has been penalized as a result of having co-operated with the government."

Part of the Project file on this purchase was filed as Exhibit 66.

The acquisition agent's report reads:

Mrs Florence Isabel Kerr (Widow)
 Tel: 942-0777
 Mulberry Lane, R. R. #1, Locust Hill, Ont.

TOWNSHIP Pickering
 LOT # 4
 DAY 21
 120

June 23rd, 1972

This property was originally part of a farm, but on death of owner was severed to provide a Residential Estate for his widow and remainder of farm was left to a son. This property is now purely residential and should qualify for disturbance allowance of 5% of Market Value, Sec. 13.

I was instructed by owner to prepare and offer under these conditions and leave same for scrutiny by her lawyer. The offer has been prepared as follows:-

Market Value	\$65,000.00
Disturbance Allow. Sec. 13(a)(1) Residential portion & 1 acre valued at \$20,000.	
5% of \$20,000.	1,000.00
Moving Costs 12 rooms @ \$50.00	600.00
Inconvenience allowance	100.00
Part of 5% negotiating range in order to obtain settlement	2,250.00
Total	\$68,950.00

Payment of entitlements within 60 days after Vendor grants vacant possession, reasonable legal fees, 2 years free rent as per instructions.
 Vendors lawyer:- Walker Clark, 20 Church St. N. Pickering Tel: 942-2711

ATTACHMENTS SKETCHES <input type="checkbox"/> PHOTOS <input type="checkbox"/> BLOG, REPORT <input type="checkbox"/> OTHER <input type="checkbox"/>	CALL NO. 1	Jim Gilhespie DATE AGENT
--	---------------	-----------------------------

REPORT OF CALL June 29th, 1972

This deal proved a little more difficult than I anticipated, as when a copy of offer came back from the owner's lawyer all our figures had been deleted and owner thinks her property more valuable than the appraised value.

However, I think I was able to convince owner that this was a fair deal and she eventually accepted, but would not accept anything less than shown in offer.

CALL NO. 2	Jim Gilhespie DATE AGENT
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REPORT OF CALL

CALL NO.	DATE AGENT
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SUPERVISOR'S COMMENTS AND RECOMMENDATIONS

July 24/72 *Jim Gilhespie*

Mr. Gilhespie testified that when he returned to see Mrs. Kerr about the offer he had left, he found that the figures had been changed. He explained his offer to her again. She telephoned her solicitor and talked to him, as did Gilhespie. Then Mrs. Kerr spoke to the solicitor again and agreed to accept the offer. Her son was present during the visits.

Mr. Gilhespie denied the complaints made by Mrs. Kerr concerning him. The solicitor for Mrs. Kerr, whose file # is D-27, also acted for Richard Kerr, file #D-28. It is probable that file referred to the remainder of the farm left to her son. On October 4, 1972, the solicitors wrote as follows:

LAWSON, CLARK & SCHILLING

BARRISTERS & SOLICITORS

WILLIAM G. LAWSON, B.A., Q.C. (1951-71)

WALKER D. CLARK, B.A.

NIGEL SCHILLING, B.A., LL.B.

TELEPHONES:

PICKERING: 942-2741

TORONTO: 839-4491

WHITBY: 668-3392

55.

P. O. BOX 68, 20 CHURCH ST., N.
PICKERING
ONTARIO

October 4th, 1972

Ministry of Treasury, Economics and
Intergovernmental Affairs,
Parliament Buildings,
Toronto, Ontario.

Attention: Mr. H. H. Mitchell,
Chief, Property Acquisition

Re: North Pickering Community Development Project purchase
Part Lot 21, Concession 4, Township of Pickering
From Florence I. Kerr - No. D-27
From Richard Kerr - No. D-28

Dear Sirs:

The above mentioned transactions were completed in August
and we are now enclosing herewith our account for fees.

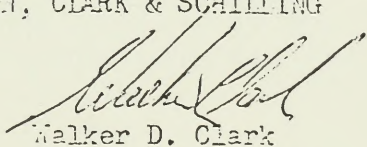
We note that in the Agreement of Purchase and Sale it is
stated that reasonable fees will be allowed to the solicitor acting on behalf
of the Vendor and that the policy seems to have been that the said fees have
been arbitrarily fixed at \$200.00. The above transactions, however, involved
many hours of negotiation and interviews with the Vendors before an Agreement
was reached and the Agreement of Purchase and Sale completed.

In the event that there is any disapproval of our account, we
would suggest that a meeting be arranged with your negotiating officers, the
writer and the Vendors in order that you may satisfy yourself that the fee,
as set out in the enclosed account, is reasonable.

Yours very truly,

LAWSON, CLARK & SCHILLING

Per:


Walker D. Clark

WDC:mb
enc.

NOTED

OCT 6 1972

DEVELOPMENT PROJECT
MINISTRY OF TREASURY, ECONOMICS AND INTERGOVERNMENTAL AFFAIRS

partied V.C.

Ministry of Treasury, Economics and
Intergovernmental Affairs,
Parliament Buildings,
Toronto, Ontario.

56.

IN ACCOUNT WITH

LAWSON & CLARK

BARRISTERS & SOLICITORS

P.O. BOX 68

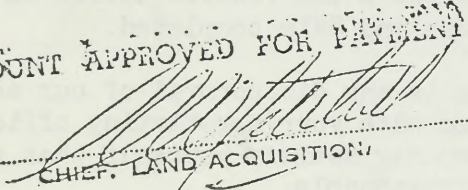
PICKERING - ONTARIO

Re: N.P.C.D.P. purchase from Kerr - No. D-27 and D. 28, Township of Pickering

TO all our FEES in connection with the above mentioned
transactions, including numerous telephone calls,
attendances and negotiations, in all 38 hours

our fee----- \$1,325.00

ACCOUNT APPROVED FOR PAYMENT


CHIEF, LAND ACQUISITION

October 4th, 1972

Mr. Vlasaty is one of the "test group" interviewed.

The summary of his interview, p. 20, reads as follows:

"Mr. Vlasaty -

Mr. Vlasaty indicated to us that he was told, 'Take this offer or be expropriated', 'Take it or leave it.'

Mr. Vlasaty indicated to us that he felt forced to take the first and only offer."

Part of the file on his transaction is Exhibit 68.

The acquisition agent's notes on his interviews are as follows:

Steve Vlasak,
R.R. #1,
Pickering, Ontario.

Pickering, Part 196, ...
Con. 4

164

10 acres with shack.
Had interview with this owner who is an old Czech man of 74 who
lives in the shack during the summer, on the property.

This is one of the best 10 acre parcels I have seen in the area.

I was unable to make a deal on this visit at our appraisal value,
but the old man told me he would settle for \$33,000.00

Our offer	Market Value.....	\$31,000.00
	Inconvenience allowance.....	100.00
	Total.....	<u>\$31,100.00</u>

SEARCHED	INDEXED	SERIALIZED	FILED
			1

Jim Gilhespie.

June 30th, 1972

Made a second call on this owner, but he still insists on more
money for his property, could possibly make a deal with the 5%
negotiating range.

2 Jim Gilhespie.

July 4th, 1972

I was surprised today when this owner walked into the office and
informed me that he had talked to his son and had decided to accept our
offer of \$31,100.00

3 Jim Gilhespie.

July 6/72 *Robson*

In his evidence he stated that he realized that Mr. Vlasaty had a very limited knowledge of English, but learned he had a son who had been educated in Canada. Mr. Gilhespie advised him to get his son to come with him and advised him to consult a lawyer. He was able to make him understand the offer he was prepared to make for the Government. Later, Mr. Vlasaty told him he had talked to his son, but he would not accept the offer. The agent did not press him. A few days later, Mr. Vlasaty came to the Project office and informed Mr. Gilhespie he would accept the offer.

When interviewed by the Ombudsman's staff, Mr. Gilhespie was not questioned about the Vlasaty transaction. On the witness stand, he denied that he told Mr. Vlasaty, "take this offer or be expropriated; take it or leave it", or that he did anything to force him to accept the offer.

Thomas and Marion Desson were also in the test group. The summary of their interview is at p. 21, as follows:

"Thomas and Marion Desson - Mr. Desson indicated to us when questioned that his first contact with the government was via an appraiser who told him that all the government was buying was land i.e. acreage and not taking the quality of the homes into account. When he was contacted by the government negotiator, he was told that this was the only offer and there would be 'no dickering'. He also mentioned a high percentage of the existing lands and that the Project was definitely going through. He was told that he could take or leave the offer and if they left it, they would wait for expropriation and they would get no more money and may even get less money. When Mr. Desson was

questioned about his reaction to these comments, he said that he was 'scared about getting less money'. He also felt that the negotiator must have been in a position to know what he was talking about so he accepted the offer."

Part of the Project file on this property is Exhibit 69. The following memo relating to this transaction is filed as Exhibit 70.

INTERDEPARTMENTAL CORRESPONDENCE

R.B.
[Signature]



ONTARIO

PARLIAMENT BUILDINGS
TORONTO 182

DEPARTMENT OF TREASURY AND ECONOMICS

May 8, 1972.

TO Mr. Roy Booth

Re: Desson Property, North Side,
Lot 24, Concession 4,
Township of Pickering.

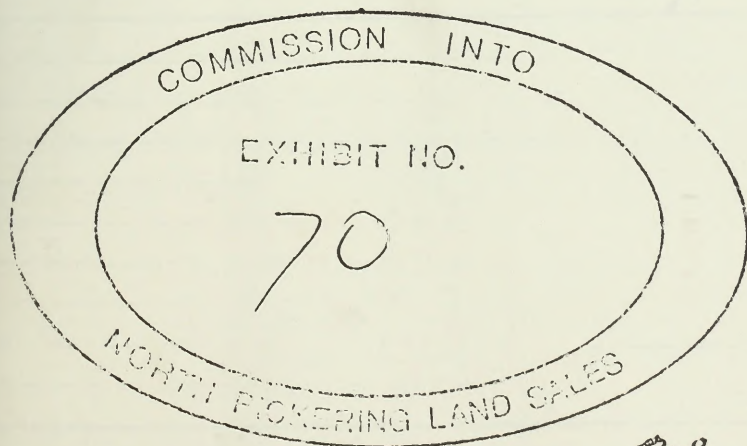
I had a call from Mr. Desson today and he indicated he wished to sell his lands as soon as possible. Apparently they comprise approximately 100 acres with two houses.

Upon questioning it seems there is no particular reason why Mr. Desson wants to sell except that he has decided to move and would like to notify us that he is willing to negotiate.

It doesn't look as if he is one that should have top priority but it might be a good idea to have one of your agents contact him within the next two to three weeks if at all possible.

H.H. Mitchell,
Chief, Land Acquisition Group.

HHM:jl



May 15
A. Saunders talked
Mr. Desson on the 15th

The agent's notes of his negotiations are as follows:

TO MR. [Name] [Address]

RE: [Subject]

Dear Sir:

I had a call from Mr. [Name] and he indicated he wanted to sell his lands as soon as possible. Apparently they comprise approximately 100 acres with two houses.

Your questioning it seems there is no particular reason why Mr. [Name] wants to sell except that he has decided to move and would like to do so as soon as possible.

It doesn't look as if he is one that should have top priority but if you have a good idea to have one of your agents contact him within the next two to three weeks it is all possible.

[Handwritten Signature]
 H. B. Mitchell,
 Chief, Land Acquisition Group.



[Faint handwritten notes]
 Mr. [Name] on the [Date]

Thomas Barron Desson
Marion Jane Desson
RR. #1, Locust Hill, Ontario.

Pickering Part Lot-23
Co-n-4

June 26th, 1972

100 Acres Farm Property Improved with an excellent 6 room dwelling,
swimming pool and farm buildings.

Subject Property was not difficult to settle as follows:-

Market Value.....	\$375,000.00	
Entitlements:		
Moving Expenses 6 rooms.....	\$300.00	
Inconvenience allowance.....	100.00	400.00
Total.....	\$375,400.00	

Mortgage Loan. Mortgagee: The Director, Veterans Land Act, December 17th, 71

Payment of entitlements 60 days after Vendor grants vacant possession.
Reasonable legal fees, 2 years free rent as per instructions.

ATTACHMENTS	
SKETCHES <input type="checkbox"/>	PHOTOS <input type="checkbox"/>
FIELD REPORT <input type="checkbox"/>	OTHER <input type="checkbox"/>

1 Jim Gilhespie.

June 26th, 1972

Had a call today with Mr. Desson who has already sold his property to the Government. The reason for his call was an old dilapidated stone house on the property. Mr. Desson wants to stay on the property for the free rent period but he would object to paying the taxes on this old house which is not habitable. The taxes amount to \$210.00 per annum. Mr. Desson said the house could be demolished for about \$100.00.

The question is can we demolish the house when it is acquired and pay \$100.00 for this service. The house has no value.

2 Jim Gilhespie.

July 12 Rub Brown

R. B. D.

R.R. # 1, Locust Hill, Ontario.

Part 23

Picket:1

I today delivered a licence to these owners and explained the options open to them re Insurance etc., and I was informed that they would consider the matter and let us have the Licence signed in a few days.

ATTACHMENTS		CALL NO.	James Gilhespie
SKETCHES <input type="checkbox"/>	PHOTOS <input type="checkbox"/>	4	October 24th, 1974
BLOC. REPORT <input type="checkbox"/>	OTHER <input type="checkbox"/>		DATE AGENT

A Licence signed by Mr. Barron was today received , this is an extension of existing licence. Mr. Barron has elected not to insure against fire loss. I have told Mr. Desson that it is a condition of the licence that the licensee carries \$100,000.00 personal liability insurance and I have again spoken this time to Mrs Desson and she has promised to let us have a copy after Christmas. I have emphasized to this licensee that it is a condition of the Licence that this insurance be in force and that we should have evidence on our file that this condition has been carried out. As these people have had a licence since 1972 I do not know why we should not have something already on file.

CALL NO.	Jim Gilhespie.
5	December 20th, 1974

Mr. Desson called into the office today and left a copy of his Personal Liability Policy with the Prudential Assurance Company Limited for \$100,000.00 from Dec. 22nd, 1974 to December 22nd, 1975 Policy No. 25896 Agent: Keith N. Brown Agency, 75 Main Street, Markham, Ontario.

CALL NO.	Jim Gilhespie.
6	December 27th, 1974

20/12/74

In his evidence Mr. Gilhespie said that he was very well received by the owners, as Mr. Desson was very anxious to sell his land to the Government. He made only one call. The vendors remained on the property under a license to remain without paying rent. Mr. Gilhespie had discussions with Mr. Desson as late as December, 1974. Mr. Desson never complained that he had been misled or forced to sell his property when he did not want to. In his evidence Mr. Gilhespie denied that he had made the statements attributed to him by Mr. and Mrs. Desson.

With respect to the allegations in the Conclusions drawn by the Ombudsman, the witness denied that he misled or confused the owners; that he had made any statement to any owner as to when expropriation was likely to take place; that he used any questionable statements to induce an owner to sell; that he threatened any persons with expropriation; that he harassed any owner or that he was guilty of any of the various other questionable or improper actions attributed to the agents in the Report, including that his actions had been unreasonable, unjust or oppressive.

With regard to a statement attributed to him in the summary of his interview, he was questioned as follows:

"Q. Just one other matter. In the report of the Ombudsman at page 44 this statement is attributed to you. I'm going to read to you what the Ombudsman's report says. It's the third paragraph: 'When asked if he had ever used an appraisal approval

form that stated on the listing sheet "use this value as an opening gambit", he answered "oh, yes". Now I'm going to read to you from the transcript of what you said to the Ombudsman and ask you whether that is what you said. You were asked: 'Did you ever use an appraisal approval form that stated in the listing sheet "use this value as an opening gambit".'

Do you recall that?

A. I recall it --

Q. 'Answer never. No never.'

Were you ever asked that question and did you make that answer?

A. Yes sir."

EVIDENCE OF THOMPSON

William Martin Thompson gave evidence. He started work with the Project in July, 1972. He had been in the real estate business since 1953. It was impressed upon him that public relations were most important, the will of the owner should be considered, he was not to apply pressure, and the offers of purchase should follow along as closely as possible to all the benefits of The Expropriation Act. He was not advised when expropriation would take place until it was announced in 1974. Before contacting an owner, he would telephone and make an appointment. On attending, he would outline the appraisal to the owner and the Government offer. If the offer was not accepted he did not apply pressure and tried to leave on an amicable basis. When he was of the opinion that the parties were too far apart, he suggested that the owner take advantage of the free appraisal of the property by an independent appraiser. Frequently, an owner would state that he would like to consult his solicitor and he always advised him to do so. Mr. Thompson negotiated with the following parties who have been interviewed by the Ombudsman:

Corado Cannata; Robert Spittel; Mr. & Mrs. Al Holcombe

Mr. Cannata is one of the twenty-three parties who complained to the Ombudsman. The summary of his interview is at page 10 of the Report:

"Our File Number 2479: Mr. Corado Cannata
(10.12 acres; \$45,400.00)

Mr. Corado Cannata, a self-employed businessman, indicated in an interview with a member of the Ombudsman's staff on January 9, 1976, that he was advised expropriation would proceed at any rate, and it was accordingly advisable to take the money being offered as he would otherwise not receive any more. Mr. Cannata also advised us that he was advised the prices for the land would remain the same as in the offer."

Mr. Cannata was first contacted by Mr. Harris, a negotiator, who offered him \$4,250.00 per acre for his 10-acre vacant lot. He reported that Mr. Cannata said he was being offered less than his neighbour. Mr. Harris recommended that a realistic review of the appraisal be taken by his superior and reported that Mr. Cannata felt that as a small business man he was being victimized by the Government.

When Mr. Thompson called, Mr. Cannata was not pleased with the offer of \$42,500.00 and informed him that his neighbour had received \$4,500.00 per acre. After some discussion, he offered to accept \$45,000.00. The report of December 1, 1972, shows that Mr. Thompson increased the offer by \$2,225.00 to a total of \$44,725.00, plus entitlements of \$100.00 for inconvenience, \$425.00 legal fees on new purchase, and \$150.00 on land transfer tax on new purchase, a total of \$45,400.00, which offer was accepted. The property was heavily treed, from which the owner sold fence posts and wood. He claimed for business disturbance. After numerous contacts with him and his solicitor by Mr. Thompson, the claim was settled for

\$2,000.00 in the solicitor's office about September 24, 1973. No complaint was made at that time that Mr. Cannata had been unfairly treated. Earlier, Mr. Thompson advised Mr. Cannata to purchase a replacement property. He signed an agreement to purchase another property, but the vendor refused to close as inflation was taking place at such a rapid rate. Mr. Thompson testified that Mr. Cannata had insisted on discussing expropriation and he had outlined to him that the Government intended to buy as much property as possible by deed, and that in the end it might possibly have to expropriate the remainder. He denied that he said, "that expropriation would proceed at any rate". He further stated that it was most unlikely that he told Mr. Cannata, "that prices for the land would remain the same as in the offer". He never told anyone that prices were frozen.

Mr. and Mrs. Holcombe were in the test group. Their summary is at page 18 of the Report, as follows:

"Mr. and Mrs. Al Holcombe -
When contacted, Mr. and Mrs. Holcombe indicated that they were offered a poor price for their home; they felt that the price was unfair as they had a good home with a basement and improvements. They indicated that the reason they sold was due to the extreme poor health of Mr. Holcombe. They indicated that now they are forced to live in an apartment."

Mr. Thompson's notes on his three visits to Mr. and Mrs. Holcombe are on page 99 of Exhibit 72, as follows:

LESLIE HAROLD & ELIZABETH HOLCOMBE

ADDRESS CHERRY WOOD P.O. ONT 839-1982

BECKERING

CROWN ROOF CLARKS HILL 770 HOWE N.S. FOREST STATION ZONE LOT 7

R.P. 273

Had interview with Mr Mrs Holcombe - Property very neat and clean Well decorated 4 room insul brick clad home 3/4 basement containing laundry room, hard freeze freezer - lot beautifully landscaped shrub flower etc - real filled and levelled to a depth of approx 80 FT. Pauper in excellent condition throughout

Mr and Mrs Holcombe an elderly couple. Had resigned to moving but most unhappy over learning the market value of 20500 as property next door (WILKINS) had been completed with an M.V. of 21500 - and Holcombe consider their property much superior to their immediate neighbors

Terminated interview at this point to gather further information

Re Call # 3 below - clause inserted by lawyer re section 15. I duly removed and initialed (call 4. 6/9/72 W.M. Thompson)

ATTACHMENTS	
SKETCHES	<input type="checkbox"/>
PHOTOS	<input type="checkbox"/>
BLDG REPORT	<input type="checkbox"/>
OTHER	<input type="checkbox"/>

CALL NO	1
DATE	2/8/72
AGENT	W.M. Thompson

REPORT OF CALL Found the Wilkins property to be slightly smaller window area than subject property and of a similar age (not 4 to 5 year) Had been repaired after a fire about 3 years ago, property comparable on a fairly even basis.

Agreement of settlement - Market Value 20500
 Less 1000
 19500

ENTIREMENTS Dist allow 544 M.V. 10250
 21500

Oncon allow 1000
 Legal title from 2000
 Left rear parcel 250
 Heavy allow 5750
 18250
 Total 23325

Owner agreed but elderly and want to see solicitor

CALL NO	2
DATE	23/7/72
AGENT	W.M. Thompson

Spoke owners Mr Mrs Holcombe to see their solicitor Mrs Legge of Legge and Legge 410 St Clair Ave East -

Mrs. Legge approved the transaction but added a clause because the Holcombes age, 2 giving them recourse to section 15 of the Respropriation act.

Agreement duly signed and witnessed in Solicitor Office.

CALL NO	3
DATE	24/8/72
AGENT	W.M. Thompson

Call mail see call 12

M. 14

Sept 7/72 R. Brown

These show that on the first visit the owners complained that the offer of \$20,500.00 was less than the \$21,500.00 their next-door neighbours received. After obtaining further information, the agent increased the offer to \$21,500.00 by using part of his 5% negotiating range. Other entitlements amounted to \$1,825.00, including \$250.00 for legal fees on a new purchase. The agent drove the owners to their solicitor as they wished to discuss the offer with her. After a private conference between the owners and the solicitor, the agent was invited in. The agreement was signed in the presence of the solicitor, who informed the agent that she considered it to be a good offer and quite satisfactory.

Mr. Robert Spittel is one of the parties who complained to the Ombudsman. The summary of his interview is at page 14 of the Report:

"Our File Number 2439: Mr. Robert Spittel
(1 acre; \$39,155.00)

Mr. Robert Spittel, a dry-goods store owner, wrote to our office on January 23, 1976. He writes: 'The following outlines our dealing with government representatives to the best of my recollection. I would, however, like to mention that the prospect of dealing with the Ontario Government was somewhat overwhelming, at least in those times. One did not expect underhanded practices. If a question was in doubt, we tended to believe that the Government or its representatives were accurate with their answers and would handle situations in a fair and honest manner.' Mr. Spittel wrote that their first contact with a representative of the Province was in the early fall of 1972 when Mr. Mason, an appraiser, approached them. Mr. Mason allegedly asked

Mr. Spittel not to mention the source of the following information: that the government set the guidelines which he must follow in his appraisal, that the guidelines allowed only for estimates based on home sales in the past two years prior to the initial announcement of the Project, as prices within the Project area had been frozen since the announcement, that the rules were, in the view of Mr. Mason, ridiculous and that much ill will existed with the group of estimators and negotiators, that some properties were being valued above the guidelines for various reasons and further that the Spittels could expect a lower settlement under the Expropriations Act. Mr. Spittel also writes that he was told by the negotiator that 'should I not accept the offer, the house would not be mine, in any case, within three months as expropriation orders were to be issued on December 31 of that year /1972/'. Mr. Spittel further alleges that they were told that settlements would be lower under the Expropriations Act, as the legislation did not provide for replacement value. Mr. Spittel also alleges that 'I asked the negotiator to show me any similar property to ours ... He declined and remarked that I had not lived through the depression of the 1920's and therefore had little idea of monetary values.' Mr. Spittel also alleges that he was promised by the negotiator that whether or not they stayed on as tenants in their house, it would first be offered back to them at the government's purchase price. Mr. Spittel now feels that it was foolish for him not to obtain that promise in writing, but notes that, 'I, at that time, had no reason to question either written or verbal commitments of a government representative.' In conclusion, Mr. Spittel writes that, 'an atmosphere of pressure and intimidation was generated by those involved in land acquisition along with a complete lack of sympathy toward the situation. It became very apparent that my family could not remain either a tenant or 'hold out' under those conditions.'

Mr. Thompson called on the owners on October 24, 1972. His notes on his visits form part of Exhibit 73. They show that the property consisted of a level lot of about one and one-half acres with ornamental and fruit trees, a garden, a one and a half storey house, about 1,450 square feet, aluminum siding, full basement, high poured concrete, double garage, overhead sliding doors and a small frame cottage. The property was very eye-appealing from the road. The interior was beautifully renovated with new plaster walls beamed, appropriate panelling, new oak floors, new windows, casings, storms and screens, living-dining room completely broadloomed, and all decorated in excellent taste. He made an offer of \$35,000.00, plus entitlements of \$2,650.00. He noted, "Mr. and Mrs. Spittel both seem to be rational beings who have completely renovated their property in a most professional manner on the luxury side, but in excellent taste".

The owners stated they would accept \$40,000.00 as market value. The agent was of the opinion that they were much attached to the property and noted, "feel this would be a most difficult deal".

Mr. Spittel telephoned the agent requesting a further interview. The agent had the appraisal reviewed by the appraiser, who was of the opinion that the value as of October 15, 1972, was \$35,000.00. On attending, he was informed by Mr. Spittel that a property had become available

to him at a good price; that it had to be acted upon immediately and closed within thirty days. As a result he was willing to compromise his thinking. After some hours of discussion, the agent agreed to recommend an increase of \$1,500.00, which with entitlements of \$2,655.00, made a total of \$39,155.00. This offer was accepted and the agent added a note to his report that the date for acceptance by the Government was November 14, 1972, and the closing date November 24, 1972, "due to necessity of the Spittels having to take advantage of opportunity of their new purchase thus making our offer more palatable. Told Spittel we would do our best to meet these dates."

The account of the solicitors for the owners was paid by the Government and reads in part, "To Our Fee Herein including advising the Vendors with Respect to Negotiations to sell Property".

Mr. Thompson denied that he made the statements attributed to him by Mr. Spittel in the summary, except as to the property being offered back. He testified that on the first visit he informed Mr. and Mrs. Spittel that in the event the Project did not require the property, they would be allowed to repurchase it at the price they received if they were still living on the property. He denied that he created an atmosphere of pressure or intimidation or was unsympathetic towards them.

He was referred to the various allegations in the Conclusions and Recommendations. He denied that he misled or confused any of the landowners or made any statement that expropriation would in all probability take place in the latter part of 1972 or in the early part of 1973, or that he was at fault in any of the ways suggested in the Report, including using undue pressure, scare tactics, or resort to like devices.

At the interview by the staff of the Ombudsman, he commented that he did not know how he could answer questions about the Project intelligently without knowing what files they proposed to deal with, so that he could refer to them. He was told he was not being accused of anything. He was not asked about any file except Spittels'. When the name Spittel was mentioned, he said, "You mean to say they made a complaint", and received the answer, "Not really".

He was informed that Mr. Spittel attended at the Project office, approached his superiors and praised him for his handling of the negotiations, and was particularly pleased that he (the agent) was able to expedite the closing to permit him to move into a new house.

EVIDENCE OF SPAFFORD

John Edward Spafford was called as a witness. He was an acquisition agent with the Project from May, 1972, to August 1, 1974. At the present time, he is self-employed on a contract basis for the Federal Government on the acquisition of the airport site. He had been engaged in real estate from 1950, except for a couple of very short periods. He participated in the training program described by Mr. Gilhespie. He was instructed to treat the landowners with all possible respect. No pressure was to be applied, everything was to be on a very amicable basis. He was to endeavour to get their empathy but at the same time, the object was to acquire the properties. He was told not to discuss expropriation. If an owner brought it up, he could not deny that there was a possibility it would happen, but he would explain he did not know when or how it would take place.

On occasions he was asked the amount an owner would receive if he held out for expropriation. He answered that as far as he knew the value would be determined at the time of expropriation on the basis of another appraisal.

He attended the meetings at Whitevale, Brougham and Cherrywood. These were question meetings to enable the owners to get information. It was his practice to arrange appoint-

ments by telephone convenient to the owner. At the meeting he would discuss the appraisal - that the Department considered it fair. If an owner disagreed with the value, he was informed of his right to have another appraisal at the expense of the Province. He negotiated with the following parties interviewed by the Ombudsman:

Glenn Levett
 Mr. & Mrs. Wayne Brown
 Mr. & Mrs. J. Ralston
 Sheldon Osterhout
 Mr. & Mrs. Lightwood
 Mr. F. Gormek

Mr. Levett's complaint to the Ombudsman is set out at page 8 of the Report:

"Our File Number 2475: Mr. Glen Levett
 (.66 acres; \$33,000.00)

In a document dated October 6, 1975, and received at our office on November 19, 1975, Mr. Glen Levett, a Plant Manager, outlined the chronological events which preceded the sale of his property to the North Pickering Project. He complains about the quality of the appraisal prepared for the North Pickering Project, and about the fact that the acquisition agent allegedly told him that only his land had value and he should accept the offer as the value would be lower come expropriation."

Mr. Spafford's notes of his first visit on Mr. Levett are dated January 17, 1973. He found the property to consist of a one and a half storey frame house clad in insul-brick with four and a half rooms on the first floor in "mint condition". The second floor was prepared for finishing into two large bedrooms. There was a combination garage

and snowmobile storage. The lot was 108' x 269' and fronted on #7 highway. The owner was unhappy with his offer of \$26,000.00, plus entitlements of \$2,300.00, and alleged it was much too low. He made a note he proposed to check the value with the appraiser. He consulted the appraiser about the appraisal which was dated November 6, 1972. He did this because of the date and also because the appraisal stated that it was the appraiser's preliminary opinion of value and he wanted to question him on that. As a result of his inquiry, a second appraisal was made by another appraiser in the amount of \$29,000.00. On June 8 he kept a second appointment with Mr. Levett. He submitted an up-dated offer of \$33,000.00 made up of market value of land \$29,000.00, disturbance allowance \$1,450.00, inconvenience allowance \$100.00, legal and survey costs new purchase \$525.00, land transfer tax new purchase \$125.00, moving cost and storage \$350.00, and part of negotiation range \$1,450.00. The effective date was May 6, 1973. The owner expressed disapproval and would have liked to have gotten more. He finally accepted the offer. He asked the agent his opinion, who stated he felt it was fair.

The agent denied that he told the owner that only his land had value and that he should accept the offer as the value would be lower on expropriation. The file shows the land to be .670 acres.

Mr. and Mrs. J. Ralston complained to the Ombudsman. The summary of their interview is at page 10 of the Report:

"Our File Number 2478; Mr. & Mrs. J. Ralston
(5 acres; \$69,300.00)

In a letter dated November 20, 1975, Mr. and Mrs. J. Ralston, former owners of a general store, contend that after having turned down two offers from the Government they were given a third value upon which to make an offer, and at that time 'were told that property was going to be frozen within thirty days and (we'd) likely be offered less, so (we) accepted it.' The Ralstons also note that their property was a 'commercial lot'; this indicates that they believe it may have had a higher market value than that ascribed to it."

The first appraisal of this property was \$53,300.00, and it was on this basis that negotiation commenced, plus entitlements of \$2,700.00. The property consisted of a lot with an old frame building containing an unused general store, with an apartment above, in the north half. The south half of the building is a second dwelling unit. There is another building used for storage purposes. This offer was not accepted. On February 8, 1973, Mr. Spafford again contacted the Ralstons. They had turned the offer over to their solicitor. The agent kept an appointment with the solicitor who claimed that there was about five acres, not three as shown in the appraisal report, and that the value was in excess of the offer. He mentioned a figure of \$65,000.00, plus entitlements. The agent stated he would have the appraisal re-checked and the quantity of land checked. A survey was.

made and a re-appraisal in the amount of \$66,000.00.

On April 3, 1973, Mr. Spafford submitted an offer to the solicitor as follows:

Market Value of Property.....	\$66,000.00
Moving 8 Rooms @\$50.00.....	400.00
Inconvenience Allowance.....	100.00
New Purchase Allowance.....	
for Legal Fees, Land Transfer.....	
Tax and Survey.....	1,000.00
5% Disturbance Allowance.....	1,800.00
	<u>\$69,300.00</u>

The agent made a note "Lawyer is advising acceptance and will confirm in near future for a total of \$69,300.00".

Mrs. Ralston telephoned the agent and advised him she had been in touch with her lawyer and they had decided to accept the offer. After the agent had further discussion to ensure that they had no further claims for business loss, the offer was accepted.

The agent denied that the Ralstons were told that the property was going to be frozen within 30 days and they would likely be offered less.

Mr. Sheldon Osterhout complained to the Ombudsman. The summary of his interview is at page 16 of the Report:

"Our File Number 2577: Mr. Sheldon Osterhout
(50 acres; \$255,425.00)"

Mr. Sheldon Osterhout's complaint was outlined to representatives of the Ombudsman by his solicitor, Mr. F.E. LaBrie. Mr. Osterhout, a school-teacher, complains that although he had had his property independently appraised in 1972

at \$285,000.00 by the Shea Real Estate Company, the first offer that he received from the North Pickering Project in 1973 was only between \$180,000.00 and \$190,000.00. Mr. Osterhaut further complains that he was told that he would be able to buy back his house and that it would be moved by the North Pickering Project at its cost and that accordingly the setting of a high price for the house was not in the interest of an owner. Mr. Osterhaut has apparently now been advised that it will not be possible to move his home because of its physical structure."

The first appraisal dated June 9, 1972, was for \$181,000.00. The agent found an estate-type property of 52 acres, zoned partly agricultural and partly greenbelt, with a custom built executive-type bungalow with a full basement finished as a separate apartment with its own private entrance at grade level; an attached two-car garage, and an older building used as a stable. The offer of \$181,000.00 was completely unacceptable. The owners valued the property of \$300,500.00, which included \$90,000.00 for the house and one acre. They requested that the house on one acre be appraised separately. The agent left and made a note that he proposed to discuss the appraisal with Mr. Mason, who had made it.

There was a second meeting with the owners on June 30, 1972. After much discussion, the agent finally got the owners to state that they would accept \$225,000.00. He advised them that the most he could offer was \$190,000.00. No agreement was reached.

The Department had a survey done to determine the replacement cost of the house, after which the agent was authorized to offer \$250,000.00. He met the owners on February 19, 1973, and offered \$250,000.00, plus disturbance allowance of \$4,975.00, cost of moving \$350.00, and inconvenience allowance \$100.00. The owners expressed their acceptance of the offer. At the suggestion of the agent, they submitted it to their solicitor. The agent called him and asked if he had seen the offer. He said he had and that Mr. and Mrs. Osterhout had decided to accept it and asked that he go and pick it up. On February 22, 1973, Mr. Spafford attended on Mr. Osterhout at his request. He found that the figures in the offer had been increased to \$300,000.00. The agent's note read, "However, I explained my limitations and due to, as he stated, (the condition of Mrs. Osterhaut's health and his age he did not have time to fight) I believe on these grounds I was able to finalize this offer at amended listing price as per attached documents".

All copies of the offer had been signed by the owners, but the figures were changed on only one copy. On April 13, 1973, Mr. F. E. LaBrie, the solicitor for the vendor, wrote to the solicitors for the purchaser, as follows:

F. F. LaBrie
Barrister and Solicitor

Messrs. Armstrong, Kemp,
Young & Burrows,
Barristers and Solicitors,
101 Richmond St. West,
Toronto, Ontario.

Dear Sirs:

re: Sheldon Osterhout

I act for Sheldon Osterhout who tells me that he has received a letter of acceptance to an offer that he signed to sell his property in Pickering Township to the North Pickering Community Development Project for whom I understand you act.

I advised Mr. Osterhout at the time that he signed an offer to sell his property, but I understand that the North Pickering buyer solicited another offer from him that was changed from the one I saw and, since Mr. Osterhout claims to have no copy of what he signed, I have been unable to inspect the contract.

However, I had a recent telephone call from Mr. Spafford of the North Pickering Community Development Project who advised me that the acceptance letter had been held up pending clearance with Mr. Osterhout that he would accept less than the agreed price of \$255,425 by reason of a 1.78 reduction in acreage from the 52 acres that Mr. Osterhout intended to sell. I trust that you will be in a position to supply me with a copy of the survey on which this reduction is based together with a copy of the agreement that has been signed.

In his latest call, Mr. Spafford advised me that the acceptance letter was being released, from which I have assumed that the buyers do not intend to persist in demanding a reduction of price because of the reduced acreage. I would appreciate being advised on what your client's position is on this matter that

F. F. LABRIE, B.A., LL.B., LL.M., D. JUR.
(Member of the Alberta Bar and Ontario Bar)
SUITE 403, BANK OF CANADA BUILDING
250 UNIVERSITY AVENUE
TORONTO, ONTARIO, CANADA M5G 3C6
TELEPHONE: AREA CODE 416, 363-1323
CABLE ADDRESS: "FELABRIE" TORONTO

April 13, 1973

RECEIVED

APR 24 1973

ARMSTRONG, KEMP, YOUNG
& BURROWS

By.....

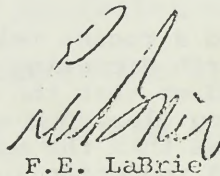
F.E. LaBrie

was discussed at some length by Mr. Spafford and me.

As your client is aware, prices of land have risen enormously in Pickering Township, though the price of land covered by the threat of expropriation has not been allowed to rise. This should be a further reason why your client would be content to pay the full purchase price without any attempt at reduction.

I would appreciate being advised of your client's position on this important matter at the earliest possible time.

Yours truly,



F.E. LaBrie

FEL:ep

The report on closing by the solicitors for the purchaser shows that \$4,703.50 was deducted from the purchase price to cover a deficiency in the acreage as worked out by the surveyors of 2.045 acres at \$2,300.00 per acre, as the agreement of purchase and sale provided that the purchase price was based on an indicated area of 52 acres and the price could be adjusted on a pro rata basis prior to completion, should the acreage be found to differ from the area above indicated. A memo in the file shows that it was agreed between the agent and the vendors' solicitor that this was a matter to be settled by the solicitors for the parties on closing. Mr. LaBrie acted for the vendors on the closing, as appears from his account to the Minister of Treasury, which reads in part:

Minister of Treasury,
Economics and Intergovernmental
Affairs,
250 Yonge Street,
Toronto, Ontario.

IN ACCOUNT WITH

F.E. LaBrie,
Barrister and Solicitor,
Suite 403,
250 University Avenue,
Toronto, Ontario.

re: North Pickering Project and
Osterhout, part of lot 27,
concession 3, Township of
Pickering - your reference
No. 7-29

TO attendance on Mr. and Mrs. Osterhout
for signing of draft agreement of purchase
and sale; to discussions with Mr. Spoffard;
to examination of deed and statement of
adjustments; to correspondence relating to
the price adjustment for acreage deficiency;
to attendance on signing of deed and to at-
tendance on closing; to necessary correspondence
and telephone calls,

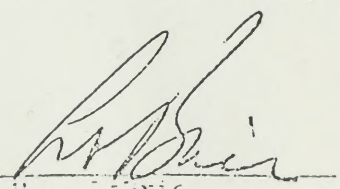
my fee \$ 200.00

F.E.L.B.

Dated the 2th day of July, 1973

ACCOUNT APPROVED FOR PAYMENT

CHIEF, LAND ACQUISITION.


F. E. LABRIE

Transcript of Immediately Preceding Document

Minister of Treasury,
Economics and Intergovernmental
Affairs,
950 Yonge Street,
Toronto, Ontario.

IN ACCOUNT WITH

F. E. LaBrie,
Barrister and Solicitor,
Suite 403,
250 University Avenue,
Toronto, Ontario.

re: North Pickering Project and
Osterhout, part of lot 27,
concession 3, Township of
Pickering -- your reference
No. E-29

TO attendance on Mr. and Mrs. Osterhout
for signing of draft agreement of purchase
and sale; to discussions with Mr. Spafford;
to examination of deed and statement of
adjustments; to correspondence relating to
the price adjustment for acreage deficiency;
to attendance on signing of deed and to
attendance on closing; to necessary correspondence
and telephone calls,

my fee \$200.00

E. & O.E.

Dated the 9th day of July, 1972

F.E. LaBrie (signed)

ACCOUNT APPROVED FOR PAYMENT

.....
Chief, Land Acquisition

Mr. Spafford never saw any appraisal by Shea Real Estate. He stated he did not tell Mr. Osterhout that because he could buy back his house from the Government that the setting of a high price for the house was not in his interest; also, that he never told him he could buy his house back.

Mr. and Mrs. G. H. Lightwood were in the "test group". The summary of their interview is at page 18 of the Report, as follows:

"Mr. & Mrs. Lightwood -

When Mr. Lightwood was contacted at his home by us, he mentioned that, 'The negotiator was quite pushy and offered \$6,000.00 for two acres of land. He said our land was an unassumed road allowance. Therefore, we'd better sell for \$6,000.00 now as we might get less come expropriation.' Mr. Lightwood's reaction to these comments was that, 'We believed him and sold. We were afraid that we would get less if we waited until expropriation.'

The market value of this property was appraised at \$6,000.00. It is shown in the appraisal as being 1.75 acres of vacant land on a private road. Its value, if developable, was estimated at \$12,000.00. The appraiser believed the value restricted by 50% due to lack of building permit, caused by non-assumption of the road by the Township.

The agent's negotiation report dated July 17, 1972, shows that he submitted an offer of \$6,000.00, plus inconvenience allowance of \$100.00, which the owners accepted. In his evidence the agent testified that the owners questioned

the offer very lightly and said they felt it was a fair offer and accepted it. He admitted that he had told them that the property was on an unassumed road allowance and, therefore, they could not get a permit to build on it. He denied the balance of their complaint, especially that he had told them they better sell for \$6,000.00, as they might get less come expropriation. He explained that it was not possible to get to the lot by automobile or anything else. You have to park on another road and walk across a field to get to it.

Mr. F. Gormek is one of the "test group". The summary of his interview is at page 19 of the Report, as follows:

"Mr. F. Gormek -

Mr. Gormek indicated that when he was contacted, he was told the following, 'Be reasonable; you better sell rather than face court problems. You might get less if you wait.' Mr. Gormek said that one shouldn't fight the government and that he sold because the man (negotiator) said he might get less and have to go to court. He further indicated that, 'We didn't get a fair price for our home site, but what can you do when the government wants your land.'

The property consists of 17.9 acres of vacant land and was appraised at \$3,500.00 per acre or \$62,650.00. Mr. Spafford's negotiation report dated June 28, 1972, shows that he offered \$62,650.00, plus inconvenience allowance of \$100.00, and part of negotiating allowance of \$1,790.00, for \$64,540.00. There is a note dated July 10, 1972, of a

further visit, at which time the owner said he would not accept less than \$4,000.00 per acre, or he would wait for expropriation and insist on a new survey and a second appraisal. After much discussion the agent submitted an offer of \$62,650.00, plus \$100.00 inconvenience allowance, and \$2,685.00 of negotiating range to cover all other expenses, for a total of \$65,435.00. This offer was accepted.

In the report of the first meeting the agent had noted, "I should be able to close this purchase deal on next visit arranged for July 5/72 as follows" - then follows the first offer. When asked while on the witness stand why he had made this note, he answered, "Because Mr. Gormek indicated in the course of our conversation that he was happy with the offer of \$3,500.00 an acre. He was very cognizant of the fact that the land he owned was a former pit area and he felt that that was a very fair return for his investment, and the only thing he asked for was he would like to think it over for a few days, which I completely agreed."

He stated Mr. Gormek was aware of his right to a second appraisal - by clear offer with no strings attached meant that he would not have the right to remove from the property anything growing on it. The agent denied that he made the statements attributed to him by Mr. Gormek.

Mr. and Mrs. Wayne Brown complained to the Ombudsman. The summary of their complaint is at page 9 of the Report,

as follows:

"Our File Number 2476; Mr. & Mrs. Wayne Brown
(.34 acres; \$44,500.00)"

In a document dated November 13, 1975, Mr. Wayne Brown, a self-employed businessman, and Mrs. Brown outlined their complaints concerning the North Pickering Project. Mr. and Mrs. Brown have advised us that the acquisition agent involved with their property was Mr. Spafford, who first offered \$38,500.00 for their property, which offer they turned down. Mr. Spafford later increased this offer to \$44,500.00 and according to Mr. and Mrs. Brown, 'He told us expropriation was just around the corner and if we did not accept this offer we would have to accept it anyway when we were expropriated. He said it was far better to settle now because we could invest the money and receive interest on the amount whereas (and he laughed) the people who held out for expropriation would receive no more, as land values were frozen as at March 2, 1972.' Mr. and Mrs. Brown further alleged that they signed an agreement to re-purchase in December 1974, which stated that the rent of the land would be \$1.00 per year until the house was moved. Mr. and Mrs. Brown allege that this condition was contained in a letter attached to the agreement. Mr. and Mrs. Brown alleged that they were later told by Mr. Dawson of the North Pickering Office that there had been a mistake and four letters had been sent out stating that the rental for the land would be \$1.00 per year, but this was in error. They were then advised that the rental they would be required to pay for their agricultural land would be \$80.00 per month. Mr. and Mrs. Brown also complain that no appraisal value was given for the finished recreation room in their home. Mr. and Mrs. Brown contend that they were and continue to be confused about the options open to them. Mr. and Mrs. Brown conclude that they have been 'led down the garden path, lied to, misrepresented and robbed'."

The property was 75' x 200' with a six room brick veneer bungalow on #7 highway at Green River, with a finished

recreation room and a wet bar, a fairly long driveway with two stone pillars. It was appraised at \$43,500.00. The owner is a builder. The agent found the construction and finish detail to be much superior to the average. He submitted an offer of \$43,500.00, with 5% disturbance allowance of \$2,175.00, moving costs $7\frac{1}{2}$ rooms @ \$50.00 - \$375.00 estimated legal survey new purchase, \$675.00 estimated land transfer tax and disbursement (new purchase) and inconvenience allowance \$100.00 - a total of \$47,000.00. The agent made a note, "Vendor is discussing our offer with his wife and solicitor. A 2nd appt. is indicated". This is dated January 29, 1973. A further note is dated Feb. 9/73, as follows, "Vendors have not agreed to accept our offer which I today improved by using part of the negotiating range, \$1,000.00 making a total of \$48,000.00. Vendor is showing it to his solicitor before signing." A note of Feb. 15/73 states, "The vendors today with the approval of their solicitor signed our offer as attached at the total of \$48,000.00."

The account of the solicitor, which forms part of the file, reads in part:

"To Legal fees herein acting for Mr. and Mrs. Brown with respect to the above transactions, interviews with Mr. & Mrs. Brown to discuss proposed offer to purchase and reviewing terms of same; amending agreement to include clause with respect to payment of bonus on existing C.M.H.C. mortgage and providing for provision of increase in interest rate on any new property to be purchased;

further meeting with Mr. Spafford to discuss proposed changes by the Ministry."

The negotiating report, dated April 20, 1973, indicated that the vendors were most amazed because they had not received a letter of acceptance. A further note shows that the agent picked up the letter and delivered it to them on May 1.

As to the allegation by the vendors that they were first offered \$38,500.00, the property was appraised at \$43,500.00 and the negotiator's report shows that on the first visit, he made an offer of \$43,500.00, plus entitlements of \$3,500.00, for a total of \$47,000.00. This was later increased by \$1,000.00, part of the negotiating range. The agent denied that he told them that expropriation was just around the corner and if they did not accept this offer they would have to accept it anyway when they were expropriated; or that it was far better to settle now and invest the money and receive interest; or that people who held out for expropriation would receive no more; or that the land was frozen; or that he had done anything to lead them to the conclusion that they had been led down the garden path, lied to, misrepresented and robbed.

The allegations made in the Report were put to him by his counsel and he denied that any of these were true insofar as they applied to him.

EVIDENCE OF BORTOLOTTI

Mr. O. C. Bortolotti gave evidence. He joined the Project in mid-April, 1972, coming from the Ministry of Revenue, and was on a yearly salary. He had experience in the real estate field and construction dating back to 1952. He attended the training course. He received instructions as outlined by the previous witnesses and added that the instructions included the importance of completing the daily reports immediately, or by the next morning at the latest. He did not know when expropriation was to occur until February, 1974. He was present at the meetings at Brougham, Cherrywood and Whitevale. At these the pamphlet was reviewed with the landowners. Before calling on an owner, he would telephone and make an appointment. When he called on the owners, if the appraisal was simple, he showed it to them. If it was a complete appraisal report in full form, he made arrangements with the owners to meet their solicitors and review it with them. He always explained the options available to them, including a second appraisal, and made notes of any complaints or suggestions from them. If any owner inquired about expropriation, he would tell them he did not know anything about it. He conducted negotiations with the following owners, who have been interviewed by the Ombudsman:

Reginald Ansell
 Mr. & Mrs. E. Gilpen
 Dr. Raymond LaForest
 Eugene Lombard
 John Marchment

Mr. Ansell was interested in property owned by Green River Nurseries Limited. He complained to the Ombudsman. The summary of his complaint is at page 13 of the Report, as follows:

"Our File Number 2484: Mr. Fred Ansell
(44.494 acres; \$169,450.00)

Mr. Fred Ansell, retired, submitted his complaint to us in a written document which was received by our office on November 19, 1975. Mr. Ansell complained that he was told 'bluntly and to the point of arrogance that the buildings/ on his property/ were of no consequence and that the government was only interested in the land' by the appraiser, Mr. Briggs. Mr. Ansell further alleged to us that when he asked Mr. Bortolotti whether they would receive any more if they went to expropriation, they 'were led to believe that we would receive no more if we went to expropriation'."

Mr. Bortolotti met the parties interested in Green River Nurseries at Mr. Ansell's home, as he had arranged. These included Mr. and Mrs. R.M. Ansell, Mr. and Mrs. R. Ansell, Jr., and Mr. and Mrs. W.O. Detweiler. The property consisted of 44.5 acres of farm land with a re-conditioned house, barn, implement shed, slatted shelter, which had been purchased for a market garden and nursery. He made a presentation based on the appraisal of \$155,729.00. This was rejected as insufficient. He reviewed the options available to them and suggested that if they were not satisfied with the appraisal that they arrange for an appraisal

of their own. They valued the property at \$4,500.00 per acre, and said they would consult a solicitor and arrange for an appraisal and would contact the agent later.

Mr. Ansell called the agent and advised him that he had received an appraisal report and asked the agent to call at his home and pick it up. The appraisal was picked up on September 27, 1972. It included a valuation of \$3,800.00 per acre for a total of \$169,000.00. A note of October 16 shows that Mr. Ansell called at the Project office regarding a reply to the second appraisal, as his partner was leaving for three to six months and he would appreciate an answer. The negotiation report shows that Mr. Ansell contacted Ed Fisher, the appraisal supervisor, on October 30 and November 3 and was advised the appraisal was under review. On November 27, 1972, the agent received an appraisal approval for \$165,000.00. He made a new presentation to Mr. Ansell based on a market value of \$165,000.00, plus entitlements of \$450.00. Mr. Ansell said he would consult the shareholders and his solicitor, Mr. Dale, but maintained that because of the reputation and recommendation of his appraiser, serious thought should be given to his appraisal of \$169,000.00. A note of December 1 shows that the agent delivered a copy of the offer to Mr. Dale and discussed it with him. The offer was subsequently increased to \$169,450.00 and an agreement of purchase and sale with this amount, dated December 5, 1972, was executed on behalf of the company.

Mr. Dale's account, which was paid by the Government, reads in part:

"To professional services rendered in connection with above (Green River Nurseries Limited sale to Ministry of Treasury) including attendance upon directors of company to discuss agreement of purchase and sale and price offered by the Ministry of Treasury, Economics and Intergovernmental Affairs, considering valuation prepared by valuator, taking instructions to sell property for \$169,000.00, the price set by the valuator, discussing form of agreement with Mr. Bortolotti....."

Mr. and Mrs. E. Gilpen were in the "test group".

The summary of their interview is at page 19 of the Report, as follows:

"Mr. & Mrs. E. Gilpen -

When Mr. Gilpen was approached by an investigator from the office of the Ombudsman, he indicated that he had been told by the negotiator that, 'We better sell now as we would not get anymore money if we waited.' He also indicated that he was told that expropriation would take their home and that the prices were fixed. Mr. Gilpen went on to add that the negotiator further indicated that the price they might receive might be less if they did not settle at the price offered. Mr. Gilpen in answer to the question of what his reaction to these comments was said, 'We took it for granted the government would give us a fair price. We didn't know any better.' Mr. Gilpen added that he had been quite ill and that he would have 'fought the situation' if he had been in better health."

Mr. Bortolotti did not make the first two calls on these parties. He did make the third call, as shown by his note of June 22, 1972. The first two calls were made

by R. W. Brown, who is now deceased. The purchase agreement, Exhibit 83-A, is dated May 23, 1972, signed by Emily Brown Gilpen, witnessed by R.W. Brown, for the sum of \$37,500.00, plus \$1,975.00 for disturbance allowance. Mr. Bortolotti made his call to obtain an additional clause to the agreement to the effect that the five percent disturbance allowance would only be paid upon the owner vacating the property. This he did with the approval of Mr. Russell Frame, the solicitor for the vendor.

Complaint was made to the Ombudsman by Mrs. Donna LaForest on behalf of herself and her husband, Dr. Raymond LaForest, as shown in the summary on page 6 of the Report:

"Our File Number 1309: Mrs. Donna LaForest
(14 acres; \$119,000.00)

We received a complaint from Mrs. Donna LaForest on behalf of herself and her husband, Dr. Raymond LaForest, Chief of Pediatrics at Scarborough General Hospital. Although Mrs. LaForest was interviewed by a member of the Ombudsman's staff on November 24, 1975, she chose to reduce her complaint to writing by letter dated March 8, 1976. In her letter she stated that, 'we were approached by North Pickering Development in 1973 and were told by Larry Forster, (A) not to hold out for expropriation as the value would be the same and we couldn't sell to a private developer. (B) Secondly, to sell for \$119,000.00, merely a technicality and that we could buy back at said price. At no time, although I signed, did I believe we could not buy back. The price did not include acreage, fourteen acres or even the cost of the house. The most North Pickering Development said was we could stay with the house and 4 - 5 acres and they could have land across the creek for a price.'

Mrs. LaForest also outlined other suggestions allegedly made to them which included the possibilities of moving the house to a typical setting or that 'North Pickering Development would find us a house.'

Mrs. LaForest writes as well that 'these last few years have been extremely nerveracking. The last few months have left Dr. LaForest, our six children and myself without a moment free of worry and harassment. All of this could have been avoided if we had not been lied to, deceived by, and led down the garden path by North Pickering Development.'

A memo in the file shows that Dr. LaForest was in contact with the Project through his solicitor, Mr. Taylor, in October, 1972. He wanted to know the present status and was informed that the appraisal had not been received and that he would probably receive an offer on November 3, 1972, on his property. Mr. Bortolotti's negotiation report of November 27, 1972, shows that Dr. LaForest arranged and attended a meeting at the Project office. The property consisted of a new, detached, custom-built "chalet"-type residence on 1.845 acres, with 12.415 acres greenbelt. Mr. Bortolotti made an offer of \$75,500.00, plus entitlements of \$4,475.00 on the residence and 1.845 acres, and \$27,500.00 for the 12.415 acres, or a total of \$107,475.00. Dr. LaForest was asked to consult his solicitor before signing the offer. He had a second visit on December 13, 1972, at which time Dr. LaForest stated he had arranged for a second appraisal. On January 9, 1973, the agent referred the owner to the list of appraisers in The Appraisal

Institute Manual of Members. On February 8, 1973, he has a note that the owner has the appraisal and will deliver it to the Project office as soon as possible. On February 19, he received a copy of the appraisal showing a market value of \$119,000.00. Under date of February 21/73, Mr. Bortolotti made a note on his negotiating report as follows:

"Considering the completeness of, No. 1, this report, No. 2, the cost report and latest similar lot sales, No. 3, it would appear that the market value arrived at is truer in value than our original presentation in the amount of \$103,000.00. Also the location, style and construction of the building would, in my opinion, require considerable 'trades chasing' and supervision by someone competent in this form of architecture."

Mr. Bortolotti received a reviewed listing and prepared an offer of \$119,000.00 market value, plus \$5,400.00 for entitlements, for a total of \$124,400.00. On March 16 Dr. LaForest called at the Project office and picked up the offer. He proposed to take it to Mr. Taylor, his solicitor. This offer was accepted.

On April 17, 1973, James A. Taylor, Q.C., solicitor for Dr. LaForest wrote the Ministry:

"Dr. LaForest has now forwarded to me a document entitled 'Agreement of purchase and sale' and has asked me to look after his interest. As you know Dr. LaForest is most anxious, in view of other financial commitments, to advance the closing date. Anything you can do to expedite the closing of the transaction would be very much appreciated."

This was brought to the attention of the agent who endeavoured to comply with the request of the solicitor.

Mr. Bortolotti did not have any contact with Mrs. LaForest before the agreement of purchase and sale was executed by her husband and has never met her. He stated that he never made any statement such as those about which Mrs. LaForest complained.

Mr. Eugene Lombard is one of the "test group". His summary is at page 17 of the Report:

"Mr. Eugene Lombard -

When Mr. Lombard was questioned as to what was told him at first contact, he answered that he was told that his land would be expropriated; he also indicated that it was made very clear to him that he would not get any better an offer if he were expropriated. He also indicated that the appraisal was done quite quickly; it was done in one day. Mr. Lombard stated that he was told that he would get a better deal if he started the ball rolling; he mentioned that, 'In hindsight I received a pretty lousy deal', and this angered Mr. Lombard. Mr. Lombard also indicated that he feels he was given the 'short shift' as he put it and he went on to add that he didn't really understand this until he got into the housing market and saw how expensive comparable properties were."

Mr. Bortolotti's negotiation report of May 11, 1972, shows the property to consist of 4.8 acres with a three-room frame cottage, and two horse barns. A small creek traverses the property. He made an offer:

Market Value.....	\$27,000.00
Disturbance Allowance.....	1,350.00
Moving 3 Rooms @ \$50.00.....	150.00
Inconvenience Allowance.....	100.00
	<u>\$28,600.00</u>

The owner agreed to accept this offer, which was made at the Project office, went to see his solicitor, brought it back to the Project office and signed it. The account for Mr. Cattanach, the solicitor for Mr. Lombard, includes:

"To legal fees herein; acting for Mr. Lombard in connection with the sale of the above property; receiving copy of offer to purchase and discussing the terms with Mr. Lombard; preparing deeds...."

Also in the file is a copy of the account of W. Kay Lycett, dated September 19, 1972, covering the purchase of a property and a disbursement of \$195.00 for land transfer tax.

Mr. Bortolotti saw a "For Sale" sign on the property before he contacted the owner. The appraisal report shows the property as listed for sale with an asking price of \$31,000.00, with a down payment of \$12,000.00. Mr. Bortolotti denied the statements attributed to him by Mr. Lombard.

Mr. John Marchment was one of the "test group". The summary of his interview is at page 20 of the Report, as follows:

"Mr. Marchment -

When approached by an interviewer from the office of the Ombudsman, he said that he was told, 'You can take it or be expropriated at the same price.' He also complained that the appraiser only spent 20 minutes looking at his house. Mr. Marchment went on to indicate that he felt the appraiser was dishonest and not open especially with reference to statements like, 'You will get less if your land is expropriated.' He feels that misrepresentations were made to him and that he is prepared to put up money for a class action against the government in this matter."

Attached to the front of the Marchment file is a memo dated May 19, 1972, stating that Mr. Marchment wants to sell immediately.

In his negotiation report of June 22, 1972, Mr. Bortolotti stated that Mr. Marchment was shocked at the market value of \$35,000.00, at which it had been appraised. He considered it worth \$50,000.00 plus or minus. He disagreed with the comparables which had been used by the appraiser and suggested a couple of sales known to him. The agent explained the options that were open to Mr. Marchment, who decided to arrange for a second appraisal. He was advised that the government would pay for it.

The agent was of the opinion that comparative properties should be assembled before he made a second call.

On July 20, Mr. Bortolotti picked up from Mr. Clark, the solicitor for the owner, the appraisal that had been made for him.

The new appraisal was discussed with the appraisal supervisor. Mr. Marchment had told the agent that he worked for Ontario Hydro and had access to the most competent legal brains in the province. The note of Aug. 29/72 shows that an offer of \$40,000.00, plus entitlements of \$5,500.00, was made. This was refused. The owner was holding out for \$44,900.00 plus or minus, plus entitlements. On July 13, 1972, Mr. Clark wrote the Project advising the appraisal made for Mr. Marchment put a value of \$45,000.00 on the property, and that his client was prepared to accept \$45,000.00, plus \$3,800.00 to cover all entitlements. The note of September 13, 1972, reads:

"Meeting at solicitor's office, Mr. Clark, Pickering, concluded as follows: market value \$41,000.00, 5% disturbance allowance \$2,000.00, moving estimate \$766.00, inconvenience allowance \$100.00, legal sale \$200.00, legal purchase, York County tariff \$560.00, surveys new purchase \$125.00. Section 18A(ii) \$2,900.00
 Total entitlements \$6,651.00
 Total compensation payable, \$47,651.00"

Mr. Marchment, Mr. Bob Brown, Mr. Clark and Mr. Bortolotti were present at the meeting in the solicitor's office. An agreement of purchase and sale was signed by the owner, who told the agent he had made an offer to purchase on a replacement property. Later, Mr. Marchment invited Mr. Bortolotti to his new home for "a little bit of a celebration". The agent was also to advise Mr. Marchment of offers being made to his grandmother, Mrs. McLean, who was also represented by Mr. Clark. Mr. Marchment never made any complaint to

him. The agent denied that he made the statements about which Mr. Marchment has complained, or that he made any misrepresentations.

Mr. Bortolotti was questioned about the change in the appraisal report. He stated he did not know how it had been made or who made it. He was asked about the statement in the Ombudsman's Report that he had said that in the early days appraisal supervisors changed figures all the time if they disagreed with the appraiser's values. He explained that he told Mr. Miles, the investigator, that if an appraisal came out at, say \$36,134.00, if he saw any file with a notation that it was raised to, say \$36,250.00, he should not get upset because the appraisal supervisors would bring it up to a round figure. He denied that he had done anything to mislead or confuse the landowners he was dealing with, or had told them or their solicitors that in all probability expropriation would probably take place in the latter part of 1972, or that he had used any improper tactic to induce an owner to sell. When he was interviewed by the Ombudsman, the files were not available to him.

EVIDENCE OF KUZIK

Joseph Kuzik gave evidence. He had twenty-two years experience in the real estate field before he joined the North Pickering Community Development Project in May, 1972. He attended a training program at that time. He related the instructions he received which were similar to those outlined by the other agents. He attended the meetings at Brougham, Whitevale and Cherrywood.

It was his practice to telephone the owners and make an appointment. If the owner was not ready to accept the offer made, he would in most cases explain his right to have another appraisal made at the expense of the Government. There was no limit placed on the amount, that he knew of. He did not know when there would be expropriation, or what the value would be at that time. He negotiated with the following parties listed in the Ombudsman's Report:

J. Littlejohn
H.R. Hutchings
B. Kalecki
Mrs. Mabel Gregg
Mr. & Mrs. William Bayes
Diliddo & Aldorasi
William Bayes

Mr. Littlejohn was one of the "test group". The summary of his interview is at page 19 of the Report:

"Mr. J. Littlejohn -
When Mr. Littlejohn was approached by a member of the Ombudsman's staff, he mentioned that he was told the amount he was being offered would not change and that he would not receive anymore

come expropriation time."

Mr. Littlejohn and Mr. Procunier owned the south half of Lot 22, Con. 5, Township of Pickering. This was a 100-acre farm with a one and a half storey house, fair to poor condition, two barns, tractor shed, fair to poor condition; water supply polluted, no drinking water, approximately 50 acres of workable land, remaining land is rolling and hilly - rented for \$140.00 per month. On August 29th, Mr. Kuzik mailed an offer to Mr. Littlejohn in the amount of \$320,300.00. The owners amended it to \$400,100.00 and returned it. This was signed by the owners. The agent prepared a new offer of \$320,300.00 and took it to the offices of Rio Algom and Rio Tinto Mines, where Mr. Littlejohn was employed as a solicitor. He was informed Mr. Littlejohn was in Montreal and would not be back until September 5 or 6. He made an appointment to see him on his return. His negotiation report note of Sept. 6 shows that he delivered the offer of \$320,300.00 to Mr. Littlejohn, who still insisted that one of his superiors have another look at his farm and its gravel potential to which he attached considerable importance:

"Dale G. Procunier, his partner, is satisfied with the offer. I feel that, given time, Mr. Littlejohn will come to terms as well. Indicated to him that if it's taken to expropriation, that's the amount it will be expropriated at."

The offer was amended to \$330,100.00. It is dated October 12, 1972, signed by John Littlejohn, with Dale Procunier as witness, and by Dale G. Procunier, with R.W. Brown, witness. The negotiation report has a memo showing the sum of \$330,100.00 to be made up of Market Value \$320,000.00; negotiation range app. 3% - \$10,000.00; and inconvenience allowance. The note states, "Procunier attended office with signed offer Oct. 13/72".

When asked why he made the note re expropriation, he replied, "He was a lawyer himself with a big firm downtown and still is as far as I know. He had me go on record that the price we were offering was the price that would be paid at expropriation." Later, he said that Mr. Littlejohn indicated he would sign the offer provided he put that on record. The agent said there was no other occasion in which he made that statement to an owner. He spoke to Mr. Procunier on the telephone. He was agreeable to the offer from the first call and on the next two calls he prodded Kuzik to make a settlement with his partner because he had another property in mind he would like to purchase.

The offer of purchase and sale contains the following:

"It is agreed that there is no representation warranty, collateral agreement or condition affecting this agreement or the real property or supported hereby other than as expressed herein in writing."

Mr. H. R. Hutchings is one of the "test group".

The summary of his interview is at page 22 of the Report:

"Mr. H.R. Hutchings -
Mr. Hutchings said to us upon questioning that he was contacted many times in an effort to persuade him to reconsider selling his property. He felt that the conduct of the individuals was reasonable; however, he felt the price he received was inadequate. He decided to settle because he was not keen on settling in court."

The property consisted of two 10-acre parcels of vacant land owned by H.R. Hutchings, L.R. Hutchings and R.C. Hutchings. A note of June 28/72 shows that Mr. Kuzik offered \$32,500.00, plus \$100.00 for inconvenience, for one parcel, and \$25,000.00, plus \$100.00, for the other. The note states:

"Undecided if he will wait for expropriation.
Feels his land is worth \$5,000.00 an acre"

On the second call Mr. Hutchings asked the agent to leave offers for both parcels, which he would take to have his sons sign, as they were away attending a summer university. Mr. Kuzik saw him again on August 2, at which time he said he had decided to wait for expropriation if necessary. He placed a value of \$3,800.00 per acre on the land. The agent suggested he get another valuation. On September 15 Mr. Hutchings telephoned and said he had changed his mind about expropriation. He asked that offers be prepared and he would have them signed. Mr. Kuzik later picked up the offers at the office of the owners' solicitor.

Mr. Kalecki is one of the "test group". The summary of his interview is at page 20 of the Report:

Mr. Kalecki -

Mr. Kalecki indicated that he was given a fixed price or offer. He felt that, 'The law was the law.' He went on to mention that he sold quickly after the offer was made as he felt obliged to sell. He felt that it was useless to argue and understood that they had to take the price that was being offered. He indicated that originally he felt that the government 'must be right' but since then he has acquired a different opinion of government actions and methods."

Bohdan and Zofia Kalecki owned 10.14 acres of vacant land. On August 9/72, Mr. Kuzik reported that he had made an offer of \$33,460.00 (the appraised value), plus \$100.00 for inconvenience allowance, and that the owners accepted. The agent told the owners that the property was appraised at \$33,460.00 and the offer was based on it.

Mrs. Mabel Gregg complained to the Ombudsman. Her summary is at page 13 of the Report:

"Our File Number 2486: Mrs. Mabel Gregg
(10.6 acres; \$85,000.00)

Mrs. Mabel Gregg, Head of Rehabilitation at Whitby Psychiatric Hospital, wrote to our office on November 20, 1975, outlining certain complaints about the North Pickering Project. Mrs. Gregg writes that their property was appraised in July, 1972, and that in September, 1972, they were approached by Mr. Kuzik, acquisition agent for the Project, who offered \$85,000.00 for the property after some discussion. Mrs. Gregg writes that several days later Mr. Kuzik again visited the Greggs and advised them that the offer of \$85,000.00 was final and 'we were told that if we waited for expropriation we would

likely receive considerably less. One suggestion made to us was that we might be able to purchase a similar property in North Bay! This is a fair admission of the fact that such a purchase was not possible in this area.' Mrs. Gregg also writes that they were not allowed to see a copy of the appraisal report and she complains of the fact that there appears to have been 'inequity in arriving at values of the various properties in the area.' Mrs. Gregg also writes that they agreed to sell their property on the condition that they could buy it back at the same price paid to them if it was not going to be used for the proposed new town. She has remained on the property in the hopes of re-purchasing the 10.6 acres back, but she now understands that only the portions not required by Hydro and Durham Region for a road-widening will be available for re-purchase."

Mr. Kuzik's negotiation report is as follows:



ONTARIO
PROVINCE OF OPPORTUNITY

Ministry of Treasury, Economics and Intergovernmental Affairs
NORTH PICKERING COMMUNITY DEVELOPMENT PROJECT
PROPERTY NEGOTIATION REPORT

OWNER'S NAME <i>Mrs. Isabel (London) Gregg</i>	PHONE	PROP. # <i>E 81</i>
ADDRESS <i>RK #1 Pickering Ont.</i>	LOT <i>Pt. Lt. 19</i>	CON. <i>3</i>
OWNER'S SOLICITOR		

NAME ADDRESS PHONE

BRIEF PROPERTY DESCRIPTION, OWNER'S DEMANDS AND VIEWS, AGENTS OFFER AND RECOMMENDATIONS ETC.

10.52 acres + Buildings

Appraised Value	<i>\$85,000.00</i>	✓
Disturbance Allowance	<i>4,250.00</i>	?
Convenience	<i>100.00</i>	✓
Survey	<i>150.00</i>	✓
Legal fees to purchase another prop	<i>550.00</i>	✓
" " this transaction	<i>200.00</i>	✓
Moving Costs	<i>400.00</i>	✓
TOTAL		<i>\$90,950.00</i>

After a three hour session and Mrs. Gregg's insistence that she be paid \$100,000 as a settlement. We parted, with another appointment scheduled for Tuesday night 8.30 P.M. Settlement anticipated

ATTACHMENTS	CALL NO.	
SKETCHES <input type="checkbox"/> PHOTOS <input type="checkbox"/>	<i>1</i>	<i>Sept 22</i>
BLDG. REPORT <input type="checkbox"/> OTHER <input type="checkbox"/>		<i>AGENT</i>

REPORT OF CALL

Settled by using 5% negotiating range

Total as above	<i>\$90,950.00</i>	✓
Negotiating range	<i>4,250.00</i>	✓
Total	<i>\$95,200.00</i>	

CALL NO.	<i>2</i>	<i>Sept. 26</i>
		<i>AGENT</i>

REPORT OF CALL

*Lawyer: John Greer Q.C.
70 - Bond St. W.
Ashawa, Ont.*

Property is free of mortgages

CALL NO.		
		<i>AGENT</i>

SUPERVISOR'S COMMENTS AND RECOMMENDATIONS

Sept. 28/72
Supervisor

He is sure he discussed the right to a second appraisal. He denied that he told her the offer of \$85,000.00 was final, or that if she waited for expropriation she would likely receive considerably less, or that he suggested that she might be able to purchase a similar property in North Bay. He believes he showed her the appraisal report. He has some recollection of telling her that if she bought the house back it would not include the swimming pool or the barn, which were further back on her property.

Mr. and Mrs. William Bayes complained to the Ombudsman. The summary is at page 8 of the Report:

"Our File Number 2472: Mr. & Mrs. William Bayes
(8.6 acres; \$66,075.00)"

Mr. William Bayes, an electrical engineer, and Mrs. Bayes have advised the Office of the Ombudsman in a written submission that the negotiator representing the Project first approached them in early December, 1972. The Bayes alleged that they were told that they were being offered a fair market price, and that if they did not accept the offer, nothing further would happen until expropriation occurred, which could be a matter of several years. The Bayes further alleged that they were told that 'regardless of when or how the property is acquired, its value would be that as of early 1972, when the Development Program was announced.' The Bayes further advised us that they were told 'people who do not sell voluntarily can not expect to be treated "as well" come expropriation.' The Bayes have advised the Office of the Ombudsman that they accepted the offer for several reasons, one being that if they had waited for expropriation they could not expect to be treated as well and would 'finish up looking for a home in 1975 with money based on 1972 evaluations of our present

home.' The Bayes further advised us that they endeavoured to purchase a similar house with approximately 5 acres of land within a reasonable distance of Toronto, but were unable to do so."

Mr. Kuzik's negotiation report on the visits to these people is as follows:

OWNER'S NAME <i>William & Sylvia Bayes</i>		PHONE	PROP.# <i>L 18</i>
ADDRESS <i>R.R.#1, Pickering Ont</i>		LOT. <i>14 13</i>	CON. <i>4</i>
OWNER'S SOLICITOR			
NAME	ADDRESS	PHONE	

BRIEF PROPERTY DESCRIPTION, OWNER'S DEMANDS AND VIEWS, AGENTS OFFER AND RECOMMENDATIONS ETC.

8.64 acres + Buildings

<i>Appraised Value per LIS</i>	<i>\$60,000</i>
<i>Disturbance Allowance</i>	<i>3,000</i>
<i>Inconvenience Allowance</i>	<i>117</i>
<i>Moving Costs Trans \$50.00</i>	<i>450</i>
<i>Legal Costs</i>	<i>600</i>
<i>Survey</i>	<i>125</i>
<i>Total</i>	<i>\$64,275</i>

They want a few days to give me an answer. Claim their replacement value with similar acreage and quality of the dwelling would run at least \$70,000.00. They also feel that they should be compensated for the swimming pool they installed a little over a year ago, on finding the pool construction invoices I promised them that we would participate in the matter.

ATTACHMENTS SKETCHES <input type="checkbox"/> PHOTOS <input type="checkbox"/> BLDG. REPORT <input type="checkbox"/> OTHER <input type="checkbox"/>	CALL NO. <i>1</i>	DATE <i>Nov. 13</i>	AGENT <i>Smith</i>
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REPORT OF CALL

CALL NO.	DATE	AGENT
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REPORT OF CALL

CALL NO.	DATE	AGENT
----------	------	-------

SUPERVISOR'S COMMENTS AND RECOMMENDATIONS.

Nov 13/72
DATE
[Signature]
SUPERVISOR



ONTARIO
PROVINCE OF OPPORTUNITY

Department of Treasury, Economics and Intergovernmental
NORTH PICKERING COMMUNITY DEVELOPMENT PROJECT
PROPERTY NEGOTIATION REPORT



OWNER'S NAME <i>William & Sylvia Bayes</i>		PHONE	PROP. # <i>L 18</i>
ADDRESS <i>RR #1, Pickering Ont.</i>		LOT. Part <i>17418</i>	CON. <i>3</i>
OWNER'S SOLICITOR			
NAME	ADDRESS	PHONE	

BRIEF PROPERTY DESCRIPTION, OWNER'S DEMANDS AND VIEWS, AGENTS OFFER AND RECOMMENDATIONS ETC.

8.64 acres

Appraised Value as approved by listing L 18	<i>\$60,000</i>	<input checked="" type="checkbox"/>
Used 5% Negotiating range	<i>3,000</i>	<input checked="" type="checkbox"/>
Disturbance allowance (5% on house & 1 acre of land) (\$36,000)	<i>1,800</i>	<input checked="" type="checkbox"/>
Inconvenience allowance	<i>100</i>	<input checked="" type="checkbox"/>
Moving cost 9 rooms	<i>450</i>	<input checked="" type="checkbox"/>
Legal costs to purchase new property	<i>600</i>	<input checked="" type="checkbox"/>
Survey	<i>125</i>	<input checked="" type="checkbox"/>
Total	<i>\$66,075.00</i>	<input checked="" type="checkbox"/>

ATTACHMENTS	CALL NO.	DATE	AGENT
SKETCHES <input type="checkbox"/> PHOTOS <input type="checkbox"/>	<i>2</i>		
BLDG. REPORT <input type="checkbox"/> OTHER <input type="checkbox"/>			

REPORT OF CALL

They have promised to sign the above offer in the amount of \$66,075.00 after taking it to Mr. Rubenoff, who has discussed the matter with me on this date and approved it verbally.

CALL NO.	DATE	AGENT
<i>2</i>	<i>Dec. 7</i>	<i>J. Kuzik</i>

REPORT OF CALL

Settled Dec. 14, 1972

\$66,075.00

CALL NO.	DATE	AGENT
<i>3</i>	<i>Dec. 14</i>	<i>J. Kuzik</i>

SUPERVISOR'S COMMENTS AND RECOMMENDATIONS

Dec 15/72 *Rubensa*
DATE SUPERVISOR

In his evidence he said he believed that they were given permission to remove the above-ground swimming pool when they moved. He said he told them they were being offered the fair market price as appraised. He denied that he told them that if they did not accept the offer nothing would happen until expropriation occurred, which might be a matter of several years. He said he did explain their right to a second appraisal. He further denied that he made the other statements attributed to him by the owners.

Mr. Diliddo complained to the Ombudsman. He and Mr. Aldorasi are joint owners. The summary of his interview is at page 14 of the Report:

"Our File Number 2488: Mr. Donato Diliddo
(14.5 acres; \$67,700.00)"

Mr. Donato Diliddo, an automobile salesman, was interviewed by an official of the Ombudsman's office on January 12, 1976. He advised us that he had been told by Mr. Kuzik, who represented the Project, that the amount he was offered for his land was all he would get; he would not receive more at expropriation. He advised us that he was told that sooner or later he would have to sell the property to the North Pickering Project. Mr. Diliddo further advises us that he was told that he might as well close the deal as waiting would only make matters worse."

These parties owned two properties. Mr. Kuzik offered a total of \$65,000.00 for one and a total of \$67,000.00 for the other. These offers were accepted. They asked the agent to find them some land so they could make some money on it. He denied that he made the statements attributed to

him by Mr. Diliddo.

Mr. William Bayles complained to the Ombudsman. A summary of his complaints is at page 16 of the Report:

"Our File Number 4900: Mr. William Bayles
 (87.56 acres: @ \$3,500.00 per acre)
 (16.21 acres; @ \$3,250.00 per acre)

Mr. William Bayles, a farmer, was formerly a part-owner of two properties which were sold to the North Pickering Project in June and September of 1972 respectively. Mr. Bayles advised us that he was told by the negotiation agent who visited him that the price he could expect for his land would remain the same or might even decrease at expropriation time."

Mr. Kuzik's negotiation report shows that he offered:

Market Value.....	\$306,500.00
Moving Costs.....	450.00
Inconvenience.....	100.00
	<u>\$307,050.00</u>

and that this offer was accepted.

Mr. Kuzik testified he telephoned before going to see Mr. Bayles. The appraised value was \$306,500.00. Mr. Bayles was overwhelmed with and overjoyed at the offer. He asked three times if he was really getting that much money. He asked the agent to call his sister and her husband, who lived in Brooklin, to come over and see the offer. Later, in Mr. Kuzik's presence, they read the offer and told him there was nothing wrong with it and the owner signed it. Mr. Kuzik had many contacts with Mr. Bayles after the offer was signed. Mr. Bayles dropped into the Project office a few times a month. He was always happy.

This continued for about three years. At no time did he ever make a complaint. Mr. Kuzik denied he told Mr. Bayles that the price he could expect for his land would remain the same, or might even decrease at expropriation time.

Mr. Kuzik was questioned about the allegations contained in the Report and denied that he had been guilty of any of the objectionable tactics which the Ombudsman found had been used.

The manner in which the acquisition agents were interviewed is stated in the Report at pages 40 and 60:

Page 40

"4. Interrogation of Negotiators and
Other North Pickering Officials
by Kathryn Cooper

On March 25 and 26, 1976, an informal question session was held in the Boardroom of the Ombudsman's office at 65 Queen Street West. The Ombudsman's staff had arranged to interview each of the negotiators employed by the North Pickering Project in 1972, as well as their supervisors Mr. Roy Booth and Mr. Harry Mitchell. Meg Wellington, a short-hand reporter hired for the session through the Special Examiner's Office, was present during the entire session to take down verbatim the questions and answers exchanged during the sessions.

One of the negotiators declined to attend at our invitation, as he wished to be remunerated at his normal hourly rate for his services. He was visited and interviewed in his office the following week, at which time he had agreed to answer our questions.

The questions were posed by Kathryn Cooper, Assistant Director of Research in the Office of the Ombudsman. Each interviewee was apprised of several factors: the background of the Ombudsman's involvement in North Pickering, the obligations imposed on the Ombudsman and his staff by virtue of The Ombudsman Act, and the obligations and protection afforded to those persons of whom we ask questions in connection with an investigation. The relevant sections of the Act are reproduced in appendix A hereto at page 125.

Each negotiator was asked a series of general questions pertaining to his involvement with the North Pickering Project in 1972. In addition, some of the negotiators were asked more specific questions pertaining to individual complaints which we had received or to questions which had occurred to our staff during the

course of their investigation of the North Pickering Project files.

Each person whose presence was requested was advised that he was free to attend in company with his lawyer; none of the men chose to do so.

Each person was asked to describe his real estate experience prior to joining the North Pickering Project. Each was asked how he became aware of job opportunities with the North Pickering Project and how he was hired. Each was asked about the instruction he received prior to commencing his duties at the Project, and if he answered that he received some instruction, was asked to describe the content of the instruction program.

This report by necessity includes only excerpts from the transcript of the question session held on March 25 and 26."

Page 60

"The final question posed to eleven of the gentlemen during the Interrogation of Negotiators and Other Officials of the North Pickering Project was this: 'What would you have done if you had been living in the North Pickering Project area in March, 1972?' The question was, of course, one which could only be answered with the benefit of hindsight and experience, but it was nonetheless evident that several of the men felt extremely strongly about the Project's approach to the owners even after almost four years have passed."

The summaries of the interviews of the five agents are as follows:

"(1) Mr. Terry Bortolotti

Mr. Bortolotti began work as a Real Estate Agent in 1952; he subsequently went into the Brokerage business and the Building Industry.

Mr. Bortolotti, in part answer to a question concerning the instruction seminars which he attended, commented that, 'the minute that we hit that particular Act, (The Expropriations Act), a lot of the problems that are encountered in that Act also began to surface. If you have studied the Act, it needs considerable amount of changing. It was not designed for this type of a project. It was not designed for this type of acquisition. It deals with more very small situations, rights-of-ways, road frontages and things like that. . .'

Mr. Bortolotti also commented, however, that in his opinion, 'the previous Act did give the public a heck of a lot of protection and I believe in that. . .'

Mr. Bortolotti was asked whether there was any policy established which provided for the number of times that an acquisition agent should visit a landowner. He answered that there was no particular policy on this subject and stated further that, 'there were too many people and there were twelve or thirteen of us and we had a heck of a lot of people to contact and you didn't waste time with one particular individual. One thing we were advised to do was cover as many people as possible and then go back because the spiel was quite long and took us three, four, five hours sometimes. People were confused. The lawyers were confused.'

Mr. Bortolotti was asked if he had ever used an appraisal approval form which had stated, 'use this figure as an opening gambit.' His answer was that, 'no, we never had that at all.' He further stated that, '(the appraisal approval form) referred to the appraisal report date, the effective date of that report and also the date it was presented to us and it has a market value typed right in it. There was no deviation from that whatsoever. You couldn't change that at all. That was signed by an Appraisal Supervisor, the Supervisor of Acquisitions and the Chief of Acquisitions. So three people had to approve that market value before a duplicate was passed on and a duplicate is on file and that initiated our office for presentation to the public.'

Mr. Bortolotti did indicate, however, that there were arguments with appraisers concerning the value assigned by the appraiser to a particular property. He said that, 'we have had a heck of a lot of arguments with appraisers. There is no doubt about that. You might as well know that. But I don't want to be put in a position of passing judgment on appraisers.'

"(2) Mr. James Gillespie

Mr. Gillespie became an Underwriter for an Insurance Company in 1960, and in 1968 a Real Estate Salesman. In 1969 Mr. Gillespie became a Real Estate Broker and worked as such until joining the North Pickering Project.

When asked for his opinion as a professional on the quality of the appraisals that he was given to use, Mr. Gillespie chose not to answer. He stated that, 'because, you see, the people who did those appraisals are supposed to be qualified people. They are supposed to be members of the Appraisal Institute of Canada and professional people. So I would rather not. I don't think I am qualified to be able to say anything about their work and that is it in that sense.'

When asked if he had ever used an appraisal approval form that stated on the listing sheet 'use this value as an opening gambit,' he answered, 'Oh, yes.'

Mr. Gillespie did comment, however, on the difficulty which existed for an appraiser in the North Pickering Project area. He commented that, '. . . you have a large area of land taken off the open market. Therefore, there was no open market. The Crown froze that particular area as from that date. So when the appraiser goes and gives his appraisal, he has to go outside the area unless he uses old values. Of course, that can be done but it makes things extremely difficult for an appraiser because there were no sales in that particular area for all that time, it was a difficult job to do, an appraiser's.' Mr. Gillespie further commented in answer to a question concerning the difficulties that would have been encountered by an appraiser working on behalf of a landowner that, 'They have

to go outside the area. Now, where do you go? Do you go North, South, East or West to find comparables? It is really a difficult thing and then you would get one appraiser, he will go South. South of Highway 2, for example. Now, that is more or less a high-priced area, therefore his final estimate is going to be in a pretty high range. The Project Appraiser may go North where the prices were decreased and taking his prices from there, he would get a low value. So you have two appraisers, one down there and one here and both with the same qualifications. It wasn't their fault. It is the circumstances.'

Mr. Gillespie was asked what he would have told a landowner if a question had come up about expropriation. He answered that, 'I wouldn't say anything. I would just say I didn't know anything about expropriation. I have no idea of it. Because how could we say when we didn't know? We knew at the same time as the public as far as the agents were concerned when it was announced and mind you, there were several false alarms because you know how many Ministers we had . . . They were changing them so regularly and they all had different policies. We had false alarms.' When asked to elaborate, Mr. Gillespie stated that, 'We thought that they would expropriate earlier than they did, but they didn't, so we couldn't understand why they hadn't done so. So I think the fact is they were changing Ministers so often and I think also they wanted to acquire as many properties as possible by deed.'

Mr. Gillespie was asked whether, when he was first hired, there was any indication that the job would last as long as it took to acquire all the property. He answered that, 'No. I had no indication. I understood, I think it would be - they told us it would be over in six months.'

Mr. Gillespie stated in answer to a question concerning the kinds of problems he encountered that, '90% of them, I would say, wanted more money. They all wanted more. They weren't satisfied with the offer most of them. There were some problems with owners who didn't want

to sell at any price, but they were a very small proportion, I think.'

Mr. Gillespie was asked about a statement attributed to him by one of our complainants, Mrs. Kerr. Mrs. Kerr had told us that he had stated that land values were frozen for two years. When questioned by Inspector W.A. Smith of the Criminal Investigation Branch, Ontario Provincial Police, about the same statement, Inspector Smith reports that, 'Gillespie denied this accusation, however, he allowed that he may have said that the land use was frozen which would be quite correct with regard to zoning.' Mr. Gillespie's answer to our question was substantially the same as his answer to Inspector Smith. He stated that, 'No. I didn't say "the value". The property zoning was frozen, but not certainly the value. I don't think I ever said the value was frozen. I mean, you see, I wouldn't have said that. How would I know the value was frozen for two years? Not with my experience in the real estate business. I would think it was something like - of course, it is four years ago, 1972, more than four years. It is nearly four years. It must have been. But they had legal counsel. They had legal counsel and I don't see any problem other than - but I certainly didn't tell them. I don't think I would have told them that values were frozen for two years. What reason would I have for saying that?'

It appears that some confusion may have existed in Mr. Gillespie's own mind regarding the 'freeze'. As noted at the top of page, Mr. Gillespie commented earlier in the Interrogation that 'The Crown froze that particular area from that date.' Such terminology used loosely may well have caused confusion and misunderstanding among the landowners.

Mr. Gillespie was asked for his opinion about his involvement in the Project and about the Project in general. In answer he stated that, 'I think the Government should not buy property by deed and just expropriation.' He further commented that, 'or if they are going to acquire it by deed, acquire all of it by deed. Not to go halfway through, you know, acquiring half of it by deed and another half by expropriation.'

Mr. Gillespie feels that he would have preferred it if they had said, 'As of March 2 this property is expropriated.'

"(3) Mr. William Thompson

Mr. Thompson had been involved in the Real Estate business for approximately twenty years as a Broker and as Office Manager. Immediately prior to joining the North Pickering Project he was managing a Real Estate office.

Mr. Thompson has stated that if he disagreed with an appraisal value, he would ask for a recheck and then prepare an offer and check and present it. He has advised us that in a lot of cases he was able to have the values increased and he indicates that, 'In one particular case, we finally ended up taking an appraisal I filled in personally because I couldn't agree with the appraisal. I wouldn't present the offer because the initial figure I wanted ran short.'

Mr. Thompson points out as well that appraisers were rushed but in his view an agent would certainly not have presented an offer with which he disagreed. Mr. Thompson stated that, 'We were pushing appraisers for appraisals because we couldn't work without them and had to wait for it and perhaps they were rushed a little bit on the first appraisals. But again, as I say, there was a double check by the agent. In other words, if you couldn't agree with the appraisal, you certainly didn't present the offer, at least I didn't and I don't think any of the fellows did.'

Mr. Thompson's views concerning possible immediate expropriation and its effects are not identical to the opinions of the other negotiators. Mr. Thompson feels that, 'If we had run straight into expropriation, there would have been a lot of very, very unhappy people and I think the fact that we didn't, a lot of people had the benefit from the market which we created. In other words, the fact that the Government was in

there and the airport was in there, started the increase in property value which again in my opinion only spread right across the market so to speak just like a wave.' He does indicate, however, that in his opinion, 'If we had expropriated immediately, perhaps there would not have been such a great increase in property value, but I am sure that it was on the way in any case, but not perhaps to the extent that it would have come so rapidly.'"

"(4) Mr. Joseph Kuzik

Mr. Kuzik was a Real Estate Salesman with Bernardi Matthews from 1952 to 1957 after which he became a licenced Real Estate Broker and worked in all phases of Real Estate until 1972 when he joined the North Pickering Project.

Mr. Kuzik was asked whether when he was first hired he was given any indication of how long the job was going to take. His answer was, 'Not really. It was an unknown factor. There was speculation it will last six months and we should be out and cleared up in six months and then it could be much longer and it continued on.'

Mr. Kuzik was asked whether he could recall ever having used an appraisal sheet which stated, 'Use this figure as an opening gambit.' He stated that, 'Yes. That was it. . . I would explain to them that the appraised value of their property was so much and so much and as far as I was concerned that is the figure we have to operate with.'

According to Inspector Smith's report, a family named Goyo claimed that Mr. Kuzik told them that, if they did not settle with the North Pickering Project, they would be expropriated and the price they would get would be that offered and no more. According to Inspector Smith's report, Mr. Kuzik had answered Inspector Smith when asked about it as follows: 'He had no way of telling when expropriation would take place or what would happen when it did.'

When we asked Mr. Kuzik about this statement, he did not recall discussing this matter with Inspector Smith.

Mr. Kuzik was asked about an entry he had made in his Property Negotiation Report with respect to property owned by Procunier and Littlejohn. Mr. Kuzik had written on September 6, 1972, in his Report of Call No. 3 that, 'Delivered our offer in the amount of \$320,300.00. Mr. Littlejohn still insists that one of my superiors have another look at his farm and its gravel potential to which he attaches considerable importance. D.L.G. Procunier, his partner, is satisfied with the offer. I feel that given time Mr. Littlejohn will come to terms as well. I indicated to him that if it's taken to expropriation - that's the amount it will be expropriated at.' During our question session, when asked to explain this entry over his signature, Mr. Kuzik answered that, 'the only way I could answer that is my feeling at the time that the appraised value that we were negotiating for could possibly not go any higher. But I can't see my - I did commit myself to settlement for a large settlement, but I did not know the date.'

Thus, a discrepancy is apparent in that Mr. Kuzik entered in his Negotiation Report in this particular instance that an offer made to an owner would constitute the value at expropriation. That he could not recall having so advised the owner does not diminish the impact of his written confirmation made at the time.

In another specific instance Mr. Kuzik wrote on August 3, 1972, upon paying a second visit on Mr. and Mrs. McMath that Mr. McMath 'hesitates to be the first to accept an offer in this area. Knows of the strong price opposition from his immediate neighbours. Can't understand why another owner across the road from him is offered \$1,000.00 an acre as opposed to \$3,500.00 an acre we are offering for like acreage to him.' Mr. Kuzik further wrote that, 'After explaining the matters out to him he indicates that he will probably sign the offer next week.' When asked to elaborate on this entry, Mr. Kuzik answered, 'I can't recall what explanation he needed. As I recall, he was ready to negotiate and sign the

offer the following week, but he didn't pose any problem as I recall."

"(5) Mr. Ted Spafford

Mr. Spafford's background was primarily in the management and appraisal field rather than Residential Real Estate.

Mr. Spafford was asked what the situation would have been if he had disagreed with the value an appraiser had set and if the figure had not been changed subsequent to his approaching his superior. He answered, 'We had no option but to trade with the figures we had. But bear in mind that in all cases every person that we approached with an offer or suggested offer of the value of their property which we were given to buy for cash at that time was also given the opportunity if he didn't agree with it to hire their own appraiser and if their own appraiser made an appraisal, the Government would pay for it.'

The answers made by these agents to the final question are summarized on page 60 of the Report, as follows:

MR. SPAFFORD

"Several of the men were ambiguous in their replies, and several felt that they would have sold their properties to the Project officials. Mr. Spafford stated that: '...we are into a hypothetical sort of situation. If I had lived in North Pickering area it would depend. Being in the real estate field at that time, prior to that time, I think my decision would have to be as it was then, if I felt the price was right and if I thought that I could sell there and go 10 miles further out so I was -- or in another direction and buy as much or more for less money, I would probably have taken it. I mean -- but, you are not only dealing with facts in a situation like this. You are dealing with emotion. You get people that have lived there all their life...'"

MR. THOMPSON

"Mr. Thompson was fairly certain that, '(he) would have stayed on the property and bought and rented it. In fact the people who did do that and were entitled to buy their home back made a considerable profit in a house they had already purchased."

MR. BORTOLOTTI

"Mr. Bortolotti answered that, 'My own personal background would have led me to see a lawyer and make a settlement and move out Because I don't think I would like to have become involved with all the possibilities or the improbabilities, the unknown and I think we had a little bit of -- I think that's about it Now, this is because of my background which has been exclusively in real estate. Rather than deal with the bureaucracy I would have taken that, I would have sold, seen a lawyer, sold and moved out.'"

MR. KUZIK

"Mr. Kuzik answered that, 'Well, knowing the market in Pickering before this Project took place, I think I would have settled almost immediately because the prices were more than fair.'"

There is no summary covering Mr. Gilhespie.

OVERALL MERITS OF CLAIMS
FOR ADDITIONAL COMPENSATION

The first matter referred to the Commission was the overall merits of claims for additional compensation by some of the former landowners. The only evidence presented on this issue consisted of a number of exhibits, including the file of the Ministry on the Mrs. Heather Dinsmore transaction, and some evidence in chief by Mrs. Dinsmore, who dealt with her complaints about the appraiser. She also gave evidence as to the visits by Mr. Bowles, an acquisition agent about whom she complained. The file contains an affidavit by him denying some of the statements about which she complained. From statements by her counsel, it would appear that it had been intended to lead much more evidence on her behalf. While the above evidence was led when the Commission was differently constituted and not repeated before the present Commission, it is not improper to comment that the facts of her claim were not sufficiently canvassed to enable a tribunal to make a determination of its merits. As Mrs. Dinsmore and the other claimants withdrew from the proceedings, the Commission is unable to consider, recommend and report on the overall merits of the claims for additional compensation by the former landowners.

AS TO ALLEGATIONS OF MISCONDUCT

In his Report the Ombudsman found:

"With respect to the actions of the negotiators we conclude that the inference that owners were in many cases misled and confused is unavoidable."

"Although the negotiators were paid on a per diem basis and not on a commission basis, they were hired to purchase property and were intent on doing so. Their achievement could only be measured in terms of the acreage they acquired. That the officials did not always have the best interests of the property owners in mind is evident by Mr. Ed Fisher's comments to representatives of the Ombudsman."

"We have concluded that the undue pressure, the scare tactics and resort to like devices in dealing with the owners, many of whom were unsophisticated in such matters, would have left the agents of the Project open to criticism even if they were acting for private developers."

and

"To borrow the language of that section it is our conclusion that the actions of the officials and agents of the Ministry of Housing were unreasonable, unjust and oppressive."

These findings, especially the blanket conclusion last quoted, constitute allegations of misconduct against the five acquisition agents, Terry Bortolotti, James Gilhespie, William Thompson, Joseph Kuzik and J.E. Spafford, even though they are not named.

In order to determine whether such allegations are justified, it is necessary to consider the Report of the Ombudsman, especially the summaries of the representations made by the parties who complained to the Ombudsman, the summaries of the interviews with the twenty-seven persons in the "test group", and the summaries of the interviews with the appraisal supervisors, appraisers and acquisition agents. It is reasonable to assume that these summaries contain all the statements made by the parties relevant to the allegations. The Report shows that thirty-seven persons were interviewed in the "test group" and adds: "Our questioning of these individuals indicated that 27 of the 37 felt generally the same way as did our original complainants." The fact that the Report does not contain any summaries or particulars of the interviews with the other ten in the "test group" supports the conclusion that none of them complained about the manner in which they were treated by any of the parties whose conduct is being reviewed. It is also necessary to consider the evidence given by the five agents and the documents filed as exhibits on their behalf.

In weighing the summaries of those who complained to the Ombudsman and those who were interviewed in the "test group" and the evidence of the witnesses, Bortolotti, Gilhespie, Thompson, Kuzik and Spafford, who testified before the Commission, it must be kept in mind that none

of the parties who complained or were interviewed was on oath, that a considerable period had elapsed between the occurrence of the events and the date on which the statements were made, that none of the parties interviewed or the five witnesses was cross-examined, that the evidence of the witnesses was given on oath, that they had the benefit of documents to assist them in refreshing their memories and much of their evidence is supported by documents made at the time of the events described.

MRS. FLORENCE KERR

Mrs. Kerr complained that Mr. Gilhespie told her that his offer did not include any compensation for the house and outbuildings on her property. The negotiation report shows that the agent placed a value of \$20,000.00 on the residential portion of 1 acre and included in the offer \$1,000.00 for disturbance allowance. After receiving the offer she consulted her solicitor. When the agent returned, he learned the figures had been changed. In his evidence he stated that he explained his offer to her again, after which she telephoned her solicitor. After she spoke to him, the agent spoke to him. Mrs. Kerr then spoke to him again and agreed to accept the offer. Mr. Gilhespie testified that he had not made the statements about which Mrs. Kerr complained. He had been questioned about a similar complaint from Mrs. Kerr by Inspector W.A. Smith

of the O.P.P. He denied the accusation by Mrs. Kerr, although he may have said, "that the land was frozen, which would be quite correct, with regard to zoning". He was also questioned about this by the representative of the Ombudsman and gave substantially the same answer. The letter from her solicitor covering this and another transaction says in part:

"The above transactions, however, involved many hours of negotiation and interviews with the vendors before an agreement was reached and the Agreement of Purchase and Sale completed."

Mrs. Kerr had the benefit of legal advice and apparently acted on it.

MR. S. VLASATY

Mr. Gilhespie realized Mr. Vlasaty had a very limited knowledge of English and suggested that he contact his son and consult a lawyer. When the agent next saw him, he said he had talked to his son but would not accept the offer and wanted more money. A few days later, he called at the Project office and informed the agent he had talked to his son and had decided to accept the offer. The agent denied that he told him, "take this offer or be expropriated; take it or leave it", or that he did anything to force him to accept the offer.

MR. T. DESSON

A note dated May 8, 1972, signed by Mr. Mitchell, Chief, Land Acquisition Group, is in the file. It stated that Mr. Desson had called him and indicated he wished to sell his lands as soon as possible. The owner accepted the offer made on the first call by the acquisition agent, who made a note, "not difficult to settle with as follows". Particulars of the offer were then set out. Mr. Gilhespie denied that he had made the statements which were attributed to him. He had dealings with Mr. Desson relative to his license to remain on the property as late as December, 1974. At no time did Mr. Desson complain that he had been misled or forced to sell his property when he did not want to.

MR. C. CANNATA

Mr. Cannata was not satisfied with the offer of \$42,500.00 made by Mr. Harris and later repeated by Mr. Thompson. After he had offered to accept \$45,000.00, the agent increased the offer to \$44,725.00, plus \$100.00 for inconvenience allowance, and \$575.00 for expenses on the purchase of a new property, for a total of \$45,400.00. Mr. Cannata signed an agreement to purchase another property, but the vendor refused to complete the transaction. Mr. Thompson had numerous contacts with Mr. Cannata and his solicitor in an effort to settle his claim for business disturbance. This claim was settled in the solicitor's office in September, 1973. Mr. Cannata never made any complaint to the agent that he had been unfairly treated. The agent denied that he told Mr. Cannata, "that expropriation would proceed at any rate", and said that it was most unlikely that he told him, "that prices for the land would remain the same as in the offer", as he never told anyone that prices were frozen.

MR. L. HOLCOMBE

In his negotiation report Mr. Thompson described the excellent condition in which he found the Holcombe property. The owners were unhappy with the offer of \$20,500.00 which he made, and referred to the price of \$21,500.00 paid for the property next door. The agent terminated the interview

to obtain further information. He found the adjoining property to be slightly smaller and that the properties were comparable, on a fairly even basis. The offer was increased to \$21,500.00, plus entitlements of \$1,825.00. The owners wished to see their solicitor. The agent drove them to see her. After a private conversation between the owners and the solicitor, the agent was invited in. The solicitor approved the transaction after inserting a clause with reference to section 15 of The Expropriation Act. (This was later removed.) The agreement was executed in the solicitor's office.

MR. R. A. SPITTEL

Mr. Thompson first called on Mr. Spittel on October 24, 1972. He found the property in excellent condition and described it in glowing terms. He made an offer of \$35,000.00, plus entitlements of \$2,650.00. The owners stated they would accept \$40,000.00. Later, Mr. Spittel telephoned him and advised him that a property had become available to him at a good price which had to be acted upon immediately, with the result he was willing to compromise his thinking. After some hours of discussion, the offer was increased to \$39,155.00, which was accepted. The dates for acceptance by the purchaser and the date for closing were advanced to accommodate the vendors in the purchase of a property. The account of the solicitor for the owners refers to his advising them with respect to

negotiations to sell the property. When the allegations made against him by Mr. Spittel were put to Mr. Thompson, he denied that he had made them. A major factor in the decision of Mr. Spittel to sell appears to have been the opportunity which he had to buy a suitable replacement property. Mr. Thompson was informed that Mr. Spittel approached his superiors at the Project office and praised his handling of the negotiations and especially the manner in which he was able to expedite the closing.

MR. GLENN LEVETT

Mr. Levett complained about the appraisal. This was not made by Mr. Spafford. His further complaint was that he was told by the negotiator that only his land had value and he should accept the offer, as the value would be lower come expropriation. These allegations were denied by Mr. Spafford. The fact that \$29,000.00, plus \$1,450.00, part of the negotiation range, was offered for a parcel 108' x 269', fronting on #7 highway (.670 acres), is not consistent with Mr. Levett having been told that only the land had value and supports the evidence of the negotiator.

MR. J. RALSTON

Mr. Spafford denied the statements attributed to him. The offer which he made was rejected by the owners, who turned the matter over to their solicitor with whom negotiations were continued. The agent had the appraisal re-checked

and a survey made. A new offer was submitted to the solicitor, who advised its acceptance. Later, the agent was informed by Mrs. Ralston that she had been in touch with her solicitor and they had decided to accept the offer.

MR. SHELDON OSTERHOUT

After two visits by Mr. Spafford on Mr. Osterhout, the Department had a survey done to determine the replacement value of the house, after which the agent offered \$250,000.00, plus \$5,425.00 for entitlements, which appeared satisfactory to the owner. The agent suggested it be submitted to his solicitor. The agent contacted the solicitor, who told him he had seen Mr. and Mrs. Osterhout, who had decided to accept the offer and suggested the agent attend on them and pick it up. Mr. Spafford called and found one copy had been changed to read \$300,000.00. The fact that all copies had been signed and only one changed and the reference to an offer of \$255,450.00 in the letter of the solicitor of April 13 indicate that one copy of the offer was altered after it left the solicitor's office. If the offer which the solicitor had recommended be accepted had been for \$300,000.00, he would have made some comment. The solicitor acted for the owners on the closing and accepted a reduction of \$4,703.50 in the purchase price due to the survey showing an area less than that contained in the offer of purchase and sale. The agent denied that he told Mr. Osterhout that he could buy back his house from the

Government, or that the setting of a high price for the house was not in his interest. In view of the active part taken by the solicitor, it must be assumed that he fully protected the interests of the owners.

MR. G. LIGHTWOOD

The negotiations for the Lightwood property were quite short. Mr. Spafford denied on oath that he had made the statements complained of by the former owners, other than he told them there was an unassumed road allowance. The appraisal report shows the statement concerning the road allowance to be correct. No complaint was made by these parties until contacted by the Ombudsman.

MR. F. GORMEK

The negotiation report shows that Mr. Gormek did not accept the first offer. On the next meeting he stated he would not accept less than \$4,000.00 per acre or he would wait for expropriation and insist upon a new survey and a second appraisal. Such a statement indicates that he was aware of his rights in event of expropriation. After further discussion the offer was increased and accepted. No complaint was made until the Ombudsman interviewed him. In his evidence Mr. Spafford denied the allegations made against him.

MR. & MRS. WAYNE BROWN

Mr. and Mrs. Wayne Brown complained Mr. Spafford first offered them \$38,500.00. The negotiation report shows that on the first call the agent made an offer of \$43,500.00, plus entitlements of \$3,500.00, (which included \$675.00 estimated disbursements on the purchase of a new property). The fact that the property was appraised at \$43,500.00 supports the evidence of the agent that this figure was used for market value in the first offer. In the notes of the first visit, the agent recorded that the owner was a builder. After describing the house he wrote, "the construction and finish detail of the home was much superior to the average". The report contains a note that the vendor was discussing the offer with his wife and his solicitor. There was a further meeting when the owner rejected the offer of \$47,000.00. The note of Feb. 9/73 recites, "vendor is showing it to his solicitor before signing". A note of Feb. 15/73 states, "The vendors today with the approval of their solicitor signed the offer as attached at the total of \$48,000.00". The solicitor's account includes interviews with Mr. and Mrs. Brown to discuss proposed offer to purchase and reviewing terms of same, amending agreement to include a clause, etc. A further note of April 20/73 indicates that the vendors were amazed that they had not received a letter of acceptance. The letter was delivered to them on May 1. The agent in his evidence denied the allegations made against him by Mr. and Mrs. Brown.

MR. ANSELL - GREEN RIVER NURSERIES

Mr. Ansell, for Green River Nurseries Limited, complained of statements made to him by the appraiser; also, that Mr. Bortolotti led them to believe that they would receive no more if they went to expropriation.

The notes of Mr. Bortolotti's first visit are dated Aug. 2/72, and show he met with Mr. and Mrs. R.M. Ansell, Mr. and Mrs. R. Ansell, Jr., and Mr. and Mrs. Detweiler. All these parties were interested in Green River Nurseries Limited. The property consisted of 44.5 acres of farm land with buildings and had been purchased for a market garden and nursery. He made an offer to them based on the appraisal he had been given. This was refused by the parties, who valued their property at \$4,500.00 per acre. The agent reviewed the options available to them and suggested that if they were not satisfied, they arrange for a second appraisal. They said they would consult their solicitor and arrange for an appraisal. On September 27, 1972, at the request of Mr. Ansell, the agent called on him and received a copy of the appraisal made for him in the sum of \$169,000.00. Later, Mr. Ansell called at the Project office. He wished a reply to his appraisal, as one of his partners was leaving for three to six months. The appraisal made for the Ministry was reviewed and on November 27 the agent was authorized to make an offer of \$165,000.00. He offered this amount, plus \$450.00 entitlements. Mr. Ansell said he would consult his solicitor, but maintained that because of the reputation

and recommendation of his appraiser, they should receive \$169,000.00. The offer was delivered to their solicitor by the agent and discussed with him on December 1. The offer was later increased to \$169,000.00, plus \$450.00 for entitlements. This offer was accepted and executed on behalf of Green River Nurseries Limited. The account of the solicitor covers "attendance on the directors to discuss the agreement and price offered, considering valuation prepared by appraiser, taking instructions to sell for \$169,000.00 the price set by the valuator, discussing form of agreement with Mr. Bortolotti, etc."

MR. & MRS. GILPEN

The complaints of Mr. Gilpen are set out in his summary (ante). The first two calls on Mr. Gilpen were made by Mr. Brown, an acquisition agent now deceased. Mr. Brown's negotiation report, part of Exhibit 83, notes that Mr. Gilpen is a double amputee, that the doors of his home are larger than usual to accommodate a wheel chair. He noted, "After careful consideration of subject, I feel our offer very fair". He told them that they would be reimbursed for necessary alterations if they purchased a new home. On his second call Mr. Brown notes that he offered \$37,500.00, plus disturbance allowance of \$1,875.00, and \$100.00 for inconvenience, with moving and alterations being left in abeyance. The agreement contains a clause that the vendor may remain on the property for two years

rent free with the property to be maintained in good condition by him and a further clause entitling the vendor to reasonable moving costs on vacating possession, together with reasonable costs of labour and material to remodel alternate accommodation when required. The Agreement of Purchase and Sale was executed on May 23/72 by Emily Brown Gilpen as owner, and witnessed by Mr. Brown. The only contact Mr. Bortolotti had with Mr. and Mrs. Gilpen was when he called on June 22/72 and had the agreement amended to provide that the disturbance allowance of \$1,875.00 would be paid when the vendor vacated the premises. This appears to have been the usual practice.

MRS. DONNA LAFOREST

When Mrs. LaForest was contacted as one of the "test group", she stated she preferred to reduce her complaint to writing, which she did on March 8, 1976. The major portion of her complaint relates to Mr. Forster. In October, 1972, Dr. LaForest was in contact with the Project office in regard to an offer on his property. He was informed that the appraisal had not been completed, but he would probably receive an offer on November 3rd. Mr. Bortolotti was the acquisition agent who negotiated the purchase of this property. His negotiation reports form part of Exhibit 84. His note of Nov. 27/72 shows that Dr. LaForest arranged an appointment at the Project office (without Mrs. LaForest). The property consisted of a new detached custom-built, chalet-type residence on 1.845 acres, plus 12.415 acres

greenbelt. The agent made an offer totalling \$107,475.00 and advised Dr. LaForest to consult his solicitor before signing. There was a second meeting in December 13, at which time Dr. LaForest said he had decided to have a second appraisal and would advise the agent of the result. The agent referred him to the appraisers listed in The Appraisal Institute Manual of Members at Toronto. The note of February 9, 1973, states that Dr. LaForest has the appraisal and will deliver it to the Project office as soon as possible. On February 19 the appraisal was received by Mr. Bortolotti. It was forwarded to his superior the following day. Mr. Bortolotti's comments in his negotiation report are favourable to the owners and set out the reasons for his belief that the appraisal made for Dr. LaForest should be preferred to the one made on behalf of the Ministry. Mr. Bortolotti was authorized to offer \$119,000.00, plus \$5,400.00 entitlements, which he did. Dr. LaForest took this offer to his solicitor, Mr. J.A. Taylor, Q.C., who wrote the Project on April 17, 1973, as follows:

"Dr. LaForest has now forwarded to me a document entitled 'Agreement of purchase and sale' and has asked me to look after his interest. As you know Dr. LaForest is most anxious, in view of other financial commitments, to advance the closing date. Anything you can do to expedite the closing of the transaction would be very much appreciated."

The offer of \$124,400.00 was accepted. Mr. Bortolotti testified he had never met Mrs. LaForest and had never made

any statement, such as those about which she complained.

MR. EUGENE LOMBARD

Mr. Lombard's complaint is that he was told certain things at his first contact. He later makes reference to the manner in which the appraisal was made. The first contact would be the appraiser not the acquisition agent. Mr. Bortolotti gave evidence that he made him an offer at the Project office. Mr. Lombard took it to his solicitor, brought it back and signed it. The account of his solicitor covers "receiving copy of offer to purchase and discussing the terms with Mr. Lombard". Included in the file is the account of another solicitor who acted for Mr. Lombard in the purchase of another property. Before Mr. Bortolotti contacted the owner he saw a "For Sale" sign on the property. He denied he made the statements about which Mr. Lombard complained.

MR. JOHN MARCHMENT

Mr. Marchment made no complaint before he was interviewed by an agent from the office of the Ombudsman. It is not clear from the summary whether he complained about the acts of the acquisition agent or only about the conduct of the appraiser. The file, Exhibit 87, contains a note that he "wants to sell immediately". Mr. Bortolotti, in his report of June 22/72, noted that the owner was shocked when he was offered \$35,000.00. He considered his property

worth \$50,000.00. He disagreed with the comparables which had been used and mentioned a couple of sales known to him. The agent explained the options and Mr. Marchment decided to have a second appraisal. Mr. Bortolotti picked up from the solicitor for Mr. Marchment the appraisal that had been made for him. On July 13, 1972, Mr. Marchment's solicitor wrote to the Project that his client would accept \$45,000.00, the value placed on his property by his appraiser, plus an additional \$3,800.00 to cover all entitlements including legal fees on purchase of a new house, but not the legal fees on the sale. The agent's note of September 13, 1972, shows that at a meeting at the office of the solicitor, an agreement was reached as follows:

Market Value.....	\$41,000.00
Disturbance Allowance.....	2,000.00
Moving Estimate.....	756.00
Inconvenience Allowance.....	100.00
Legal Fees on Sale.....	200.00
Legal Fees on Purchase.....	550.00
Survey New Purchase.....	125.00
Section 18A (ii).....	2,900.00
	<u>\$47,651.00</u>

Later, Mr. Marchment invited Mr. Bortolotti to his new home for a "little bit of a celebration". The agent denied that he had made any of the statements about which complaint was made.

MR. J. LITTLEJOHN

Mr. Littlejohn first complained when he was interviewed by the agent of the Ombudsman in March, 1976. His complaint is that he was told the amount he was being

offered would not change and that he would not receive any more come expropriation time. The property was a 100-acre farm with buildings in fair to poor condition, with fifty acres of workable land. The remainder was rolling and hilly. The water supply was polluted. The property was rented for \$140.00 per month. It was owned by Dale G. Procunier and John G. Littlejohn, who was a solicitor with Rio Algom and Rio Tinto Mines, with offices on Adelaide Street West, Toronto. Mr. Kuzik was in touch with Mr. Littlejohn and made an offer of \$320,300.00. On Aug. 29, 1972, the owners returned the offer. The price had been increased to \$400,100.00. The agent redrew the offer in the sum of \$320,300.00 and delivered it to Mr. Littlejohn, who insisted that one of his superiors have another look at the farm and its gravel potential, to which he attached considerable importance. His report of Sept. 6 includes the following:

"Dale G. Procunier, his partner, is satisfied with the offer. I feel that given time Mr. Littlejohn will come to terms as well. I indicated to him that if it's taken to expropriation that's the amount it will be expropriated at."

The owners amended the offer they had received by making the market value \$330,000.00, with \$100.00 in lieu of all entitlements. It is dated October 12, 1972. Dale Procunier signed as witness to the signature of Mr. Littlejohn, and R.W. Brown signed as witness to the signature of Mr. Procunier. When asked why he made the note re expropriation, Kuzik said, "He was a lawyer himself with a big firm downtown, and still

is, as far as I know. He had me go on record that the price we were offering was the price that would be paid at expropriation". Later in his evidence, he said that Mr. Littlejohn indicated he would sign the offer provided he put that on the record. He testified that Mr. Procunier was agreeable to the offer from the first call and on the next two calls prodded him to make a settlement with his partner because he had another property in mind. The agreement signed by the parties contains the following:

"It is agreed that there is no representation warranty, collateral agreement or condition affecting this agreement or the real property or supported hereby other than as expressed herein in writing."

MR. H. R. HUTCHINGS

Mr. Hutchings, on being interviewed in March, 1972, stated that the conduct of the individuals was reasonable. He felt the price he received was inadequate. Particulars of Mr. Kuzik's dealings with him are set out above.

MR. B. KALECKI

When interviewed by an agent of the Ombudsman, Mr. Kalecki stated that he believed that he was required to accept the offer that was made and sold quickly because he felt obliged to sell. He does not give any indication of what caused him to believe as he did, and does not make any allegation against the acquisition agent. Mr. Kuzik reported that he had made an offer of \$33,560.00 and it was accepted.

Possibly the basis of Mr. Kalecki's complaint is, "that originally he felt that the government 'must be right', but since then he has acquired a different opinion of government actions and methods", as reported at the end of the summary of his interview.

MRS. MABEL GREGG

Mrs. Gregg complained that Mr. Kuzik called and made an offer of \$85,000.00; that he called several days later and told her that the offer was final and that if she waited for expropriation, she would likely receive considerably less; also that the agent suggested she might be able to purchase a home in North Bay; further, that she was not permitted to see the appraisal. She alleges, "inequity in arriving at values of the various properties in the area". She also complains that she was able to buy back only that part of the property not required by Hydro and for road widening.

Mr. Kuzik's report of Sept. 22 shows that he offered her \$85,000.00, plus \$5,950.00 for entitlements. After a three-hour discussion during which Mrs. Gregg insisted she be paid \$100,000.00 as a settlement, he left, it having been arranged that he return on Tuesday. His note of Sept. 26 reads:

"Settled by using 5% of negotiating range	
Total as above	\$90,950.00
Negotiating Range	4,250.00
	<u>\$95,200.00"</u>

Mr. Kuzik denied that he told Mrs. Gregg that the \$85,000.00 was final, or that if she waited for expropriation, she would likely receive considerably less, or that he suggested she might be able to purchase a home in North Bay. He is sure he discussed her right to a second appraisal and believes he showed her the appraisal report. He has some recollection of telling her that if she bought the house back that it would not include the swimming pool or the barn, which were further back on the property.

MR. & MRS. WILLIAM BAYES

These parties alleged that they were told by the negotiator that they were being offered a fair price and if they did not accept it, nothing further would happen until expropriation, which could be a matter of several years; that no matter when or how the property would be acquired, its value would be that of early 1972 when the Development Program was announced; that those who did not sell voluntarily could not expect to be treated as well. The negotiation report of Mr. Kuzik, dated Nov. 13, shows that an offer of \$60,000.00, plus \$4,275.00, was made to them. This included \$725.00 legal fees and survey on the purchase of a new property. They wished a few days to consider the offer. They expressed the belief that a replacement home would cost them more money and that they should be compensated for a swimming pool they had installed. The agent told them he would look into the matter. On his second

visit the offer was increased to \$66,075.00. The report of the third visit on Dec. 7 reads:

"They have promised to sign the above offer in the amount of \$66,075.00 after taking it to Mr. Rubinoff, who has discussed the matter with me on this date and approved it verbally."

A further note reads:

"Settled Dec. 14, 1972
\$66,075.00"

Mr. Kuzik admitted he told them they were being offered the fair market value as appraised. He explained their right to a second appraisal. He denied that he told them that if they did not accept the offer, nothing would happen until expropriation occurred, which might be a matter of several years, and the other statements attributed to him by the owner. It is his recollection that they were permitted to remove the above-ground swimming pool.

MESSRS. DILIDDO & ALDORASI

When Mr. Diliddo was interviewed as a member of the "test group", he alleged that Mr. Kuzik told him that the amount he was offered for his land was all he would get; he would not receive more at expropriation; that sooner or later he would have to sell to the Project and that he might as well close now as waiting would only make matters worse. These parties owned two properties. The negotiation report of Sept. 7 notes that, "Bert Harris (an acquisition agent) had discussed the 5% negotiation range or its equivalent with the owners but did not follow it up.

They are still thinking in terms of \$5,000.00 per acre. I hope their thinking along this line is now dispelled. Asked me for offers on both parcels. To see them again early next week." The report of Sept. 11 shows that they accepted an offer as follows:

Market Value.....	\$64,200.00
Legal Fees.....	200.00
Inconvenience.....	100.00
Negotiating Range of 5% Allowed.....	<u>3,210.00</u>
	\$67,710.00

rounded at \$67,700.00.

The report on the other property shows a first offer of:

Market Value.....	\$61,600.00
Legal Fees.....	200.00
Inconvenience Allowance.....	<u>100.00</u>
	\$61,900.00

The report of Sept. 12/72 shows that the owners accepted an offer as follows:

Market Value.....	\$61,600.00
Reasonable Legal Fees.....	200.00
Inconvenience Allowance.....	100.00
Negotiating Range of 5% Allowed....	<u>3,080.00</u>
	\$64,980.00

rounded at \$65,000.00.

The appraisal report, part of Exhibit 97, shows that the first parcel was purchased in February, 1969, for \$2,720.00 per acre, for 14.5 acres, for a total of \$40,000.00. The appraiser put a market value of \$4,250.00 per acre on it. Mr. Kuzik denied that he made the statements attributed to him by Mr. Diliddo and stated that the owners asked him to find some land so

that they could make some money on it.

WILLIAM BAYLES

Mr. Bayles' complaint is that the negotiating agent told him that the price he could expect for his land would remain the same, or might even decrease at expropriation time.

Exhibit 98, covering the 87.56 parcel, shows that Mr. Kuzik attended on Mr. Bayles on June 26 and 27 and arranged to purchase the property at:

Appraised Value.....	\$306,500.00
Moving Costs.....	450.00
Inconvenience Allowance.....	100.00
	<u>\$307,050.00</u>

Nothing has been filed on the 16.21 acre parcel.

Mr. Kuzik testified that he made an appointment before visiting Mr. Bayles, who was overwhelmed with and overjoyed at the offer and asked three times if he was really getting that much money. He asked Mr. Kuzik to call his sister and her husband, who lived in Brooklyn, to come over and see the offer. Later, in Kuzik's presence, they read the offer and told him there was nothing wrong with it and the owner signed it. During the three years following the signing of the offer, Mr. Bayles called into the Project office a few times a month, where he was seen frequently by Mr. Kuzik. He was always happy and never made a complaint.

The Ombudsman found that:

"Although the negotiators were paid on a per diem basis and not on a commission basis, they were hired to purchase property and were intent on doing so. Their achievement could only be measured in terms of the acreage they acquired. That the officials did not always have the best interests of the property owners in mind is evident by Mr. Ed. Fisher's comments to representatives of the Ombudsman."

Mr. Gilhespie described Mr. Vlasaty's property as, "one of the best 10 acre properties I have seen in the area". Of the Desson property he said, "100 acres of farm property improved with an excellent 6 room dwelling, swimming pool and farm buildings."

Mr. Thompson reported the Holcombe property as, "very neat and clean well-decorated"; "beautifully landscaped, shrubs, flowers"; "in excellent condition throughout", and of the Spittel home, "The property was very eye appealing from the road. The interior was beautifully renovated with new plaster walls beamed, appropriate panelling, new oak floors, new windows, casings, storms and screens, living room completely broadloomed, and all decorated in excellent taste." He reported the Spittel property to be in "mint condition".

Mr. Spafford described the Osterhout home as a "custom built executive-type bungalow with a full basement finished as a separate apartment". After giving particulars of the Brown home, he added that the construction and finish

detail was "much superior to the average".

In his comments supporting the appraisal which Dr. LaForest had obtained, Mr. Bortolotti stated:

"Considering the completeness of, No. 1, this report, No. 2, the cost report and latest similar lot sales, No. 3, it would appear that the market value arrived at is truer in value than our original presentation in the amount of \$103,000.00. Also the location, style and construction of the building would, in my opinion, require considerable 'trades chasing' and supervision by someone competent in this form of architecture."

Mr. Bortolotti was a civil servant on an annual salary. When asked, while in the witness box, if Dr. LaForest had mentioned anything to him about refinancing, he replied, "Yes, I know, but it was a personal nature and I don't think it involved the relationship between him and the Project."

These agents had long experience in real estate matters and were well qualified for the positions they held. Their notes and comments clearly show that they sought to serve the interests of the owners and fully appreciated their obligation to treat them fairly and justly. They did not attempt to minimize the value of the property, but pointed out those factors which would tend to increase its value. They were sensitive to the rights of the owners and endeavoured to promote them.

Mr. Kuzik had twenty-two years experience in the real estate field. Mr. Hutchings, with whom he negotiated, felt that his conduct was reasonable. His only complaint was that the price he received was inadequate. Mr. Bayles continued to visit the Project office where he had contact with Mr. Kuzik for three years following the sale of his property. He was happy and never made any complaint.

All five agents advised the owners of their right to a second appraisal if they were dissatisfied with the offer made.

The Report of the Ombudsman deals extensively with the investigation into the change from \$39,000.00 to \$37,500.00 in the Gilpen appraisal. The appraisal approval form, dated May 8, 1972, recommended approval in the amount of \$37,500.00. This indicates that the change was made before Mr. Brown's first call on Mrs. Gilpen, as recorded in his report of 5/10/72. His report of May 23/73 shows that his offer was based on a market value as approved of \$37,500.00. Mr. Bortolotti had no contact with the transaction, except to have the offer amended to provide for the disturbance allowance being paid when vacant possession was given. He knew nothing about the change. There is no evidence to link any of the other four agents, whose conduct is being considered, with the transaction.

The summary in the Report of the Ombudsman quotes Mr. Gilhespie as saying, "Oh, yes", when he was asked if he had

ever used an appraisal approval form that stated on the listing sheet, "use this value as an opening gambit". When he was on the witness stand, his counsel read from the transcript of proceedings before the staff of the Ombudsman, which shows that when he was asked this question, he answered, "Never. No, never." He testified that was the answer he made. The error in the summary may have been due to inadvertence. When asked a similar question, Mr. Kuzik replied, "Yes. That was it.... I would explain to them that the appraised value of their property was so much and so much as far as I was concerned that is the figure we have to operate with."

The Report, at page 85, states:

"The fact that in some cases the negotiators relied on the appraisal reports even if they felt the value assigned to the property was low was confirmed for us when Mr. William Clymer was questioned. As already outlined in more detail, Mr. Clymer was asked whether he would have approached an appraiser to increase his value in such a case and he answered that, 'No. We were just told to go in and make the offer regardless.' Other negotiators stated that they sought to have the value altered, however."

The summary of Mr. Bortolotti's interview reports that he stated there were arguments with appraisers concerning values assigned by an appraiser to a particular property. He is quoted as saying, "We have had a heck of a lot of arguments with appraisers. There is no doubt about that."

Mr. Thompson told the interviewer that if he disagreed with an appraisal, he would ask for a recheck. In a lot of cases, he was able to have the value increased. He is quoted, "In one particular case, we finally ended up taking an appraisal I filled in personally because I couldn't agree with the appraisal. I wouldn't present the offer because the initial figure I wanted ran short." He also stated, "In other words, if you couldn't agree with the appraisal, you certainly didn't present the offer, at least I didn't and I don't think any of the fellows did."

Mr. Spafford told the interviewer that if he disagreed with an appraisal and the figure was not changed after he had consulted his superior:

"We had no option but to trade with the figures we had. But bear in mind that in all cases every person that we approached with an offer or suggested offer of the value of their property which we were given to buy for cash at that time was also given the opportunity if he didn't agree with it to hire their own appraiser and if their own appraiser made an appraisal, the Government would pay for it."

The following extract is taken from page 79 of the Report:

"As Mr. Terry Bortolotti was the negotiator who had closed the deal with the Gilpens, following the death of the first negotiator, Mr. Bob Brown, he was questioned about the Gilpen property by representatives of the Ombudsman during our interrogation session. He knew nothing of the market value having been changed. One of the Ombudsman's investi-

gators subsequently spoke to Mr. Bortolotti on March 29, 1976 at the North Pickering Project site office. Mr. Bortolotti then produced the Gilpen file and advised the Ombudsman's investigator 'that in the early days appraisal supervisors changed figures all the time if they disagreed with an appraisor's values.'

In evidence Mr. Bortolotti contended that he had not used the words attributed to him. During his evidence he was asked in regard to the conversation with the investigator and answered:

"I showed him the Gilpin file and we discussed it and then later on during the conversation at a later point in time, not connected with the two, I mentioned something to the effect that if an appraisal amount comes in at a figure which denotes 1, 2, 3, 4 as ending figure - say \$36,134 then if he saw these in any of the files with a notation that it was raised to say \$36,250 he should not get upset over it because the appraisal supervisors would bring it up to the rounded figure."

Mr. Kuzik noted in his negotiation report on the Littlejohn and Procunier transaction:

"I indicated to him (Mr. Littlejohn) that if it's taken to expropriation that's the amount it will be expropriated at."

Mr. Kuzik was aware that Mr. Littlejohn was a solicitor with a large mining corporation, and was entitled to assume that the solicitor was as familiar with his rights if he decided not to sell but to wait for expropriation as he (Kuzik) was, if not more so. The agent made the representa-

tion innocently and without any intention to mislead the solicitor, or to deal unfairly or unjustly with him. The offer was not accepted until five weeks after the representation was made, during which time the offer was in the possession of the owners and amended by them. It is also significant that no complaint was made until Mr. Littlejohn was interviewed during the investigation of the "test group" by the agent for the Ombudsman. Mr. Kuzik did not make such a statement to any other owner.

A considerable number of the owners acted on the advice of their solicitors. Notwithstanding the statement, "People were confused. The lawyers were confused", attributed to Mr. Bortolotti in the summary of his interview, there is no reason why it should not be assumed that the solicitors were qualified and competent to and did properly advise their clients and protect their interests.

The five agents were requested to and did attend an informal question session held at the Ombudsman's Office on March 25 and 26, 1976. They were not advised as to what transactions they would be questioned about and they did not have any files with them. Mr. Gilhespie was questioned about the complaint made by Mrs. Kerr, and Mr. Kuzik was asked about an answer he is alleged to have made to Inspector Smith, who had earlier investigated a complaint by a party named Goyo, and who does not appear to have been interviewed for the Ombudsman. No other specific allegations made

against them were put to them. They were not informed of any contention that their actions were unreasonable, unjust and oppressive, or that they had used undue pressure, scare tactics and like devices. They were not given an opportunity to make representations respecting an adverse report or recommendation which might be made against them as provided in Section 19(3) of The Ombudsman Act, which reads:

"(3) The Ombudsman may hear or obtain information from such persons as he thinks fit, and may make such inquiries as he thinks fit and it is not necessary for the Ombudsman to hold any hearing and no person is entitled as of right to be heard by the Ombudsman, but, if at any time during the course of an investigation, it appears to the Ombudsman that there may be sufficient grounds for his making any report or recommendation that may adversely affect any governmental organization or person, he shall give to that organization or person an opportunity to make representations respecting the adverse report or recommendation, either personally or by counsel."

The five agents gave their evidence in a straightforward and convincing manner. They had the benefit of the files to refresh their memories. While not cross-examined (due to the decision of the claimants not to take part in the proceedings), they were not subject to the emotional or financial involvement which would be bound to affect most, if not all, of the parties who complained or were interviewed.

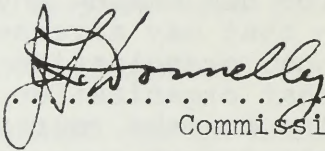
A careful consideration and weighing of the Report of the Ombudsman, especially the summaries of the representations made by the complainants and the interviews conducted by the Ombudsman and the evidence led on behalf of the five land

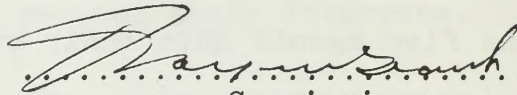
acquisition agents before this Commission, leads to the conclusion that none of the allegations of misconduct made in the Report of the Ombudsman on the North Pickering Project against

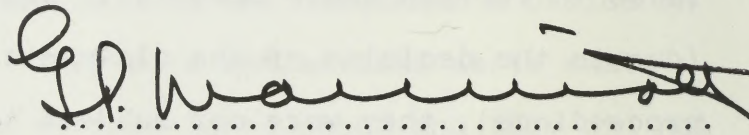
Terry Bortolotti;
James Gilhespie;
William Thompson;
Joseph Kuzik;
J. E. Spafford

is justified and this Commission so reports.

All of which we respectfully submit for Your Honour's consideration.


.....
Commissioner


.....
Commissioner


.....
Commissioner

December 5, 1977.

You were asking about . . .

LAND ACQUISITION FOR THE NEW NORTH PICKERING COMMUNITY

*Here are the answers
to questions you
may be asking if
you own property
or reside in the
area designated
for development
of Ontario's new
North Pickering
community*

DOES IT MAKE SENSE TO BUILD A COMMUNITY OF 200,000 NEAR A NEW AIRPORT?

North Pickering will be near enough to be convenient to the airport, but even the nearest houses will be several miles away – much further than a good many dwellings now are from some airports. Also, careful co-ordination between provincial and federal planners will ensure that *no North Pickering houses will be in any flight path* or even in any noise zone. The decision to build the new community simultaneously with planning and construction of the airport simply means that the region in the next ten years will undergo development which, in all probability, would have occurred anyway over the next two or three decades.

WHY DOES THE ONTARIO GOVERNMENT NEED TO ACQUIRE ALL THE PROPERTY WITHIN THE 25,000-ACRE SITE IF SOME HOUSES ARE TO REMAIN AS THEY ARE?

This is necessary if the province is to develop the new community to its maximum potential. Working in close co-operation with local bodies, provincial planners must be free to develop a plan that will indicate the best possible locations for houses, stores, industries, roads, parks, conservation lands, recreation areas and all the other amenities of modern living.

WHO WILL DEVELOP THE NEW COMMUNITY?

The Ontario government, while retaining strict control of the development in keeping with the plan, will probably invite the private sector to finance and carry out most of the work. Regulations will govern the quality and price of (among other projects) houses, so as to be fair both to purchasers and developers.

HOW DOES THE ONTARIO GOVERNMENT PROPOSE TO TAKE OVER MY PROPERTY?

The first step, already under way, is appraisal. A fully qualified, professional appraiser, hired from the private sector especially for this project, will call on you and ask permission to inspect your house and property. Before admitting him to the premises, you should ask for his credentials. He will be carrying an official Ontario govern-

Note: The rent-free arrangements described in this pamphlet apply only to owner-occupied single family residences.

ment identification card with his picture, to show that he is a legitimate representative of the North Pickering Community Development Project.

The appraiser you meet will be happy to discuss with you any of the questions that might bear on the appraisal he is making. Your house or land may contain certain features that make it worth more than a house of similar size and condition elsewhere, and you should feel free to point these features out to him.

The appraiser will be estimating the market value of your property – that is, the gross amount you would receive if it were offered for sale on the open market.

One thing the appraiser will *not* be at liberty to discuss with you is the price he intends to suggest, and you should not interpret his response as a lack of frankness or sympathy with your situation.

HOW WILL AN OFFER BE MADE?

A knowledgeable and experienced negotiator will arrange to visit you, at your convenience. Like the appraiser, he will carry official identification. This negotiator will willingly discuss all aspects of the sale with you and will offer you the appraised value of your property. One thing he will *not* discuss, however, is the price that has been paid or is being offered to other property owners in your area. This policy will be observed scrupulously to protect each owner's personal privacy. (It is your privilege, of course, to reveal the price to others if you wish to.)

The government's offer to purchase will be presented to you in writing. If you are willing to close the transaction, the negotiator will make all the necessary arrangements. You can expect the closing process to take about 60 days – the normal period for residential purchases. At this point you will receive a cheque as payment in full of the agreed amount.

WHO WILL PAY MY LEGAL FEES?

The government will pay for all reasonable legal expenses entailed in the negotiation and sale of your property, and in most cases there will be no real estate fee to pay. (The exception would occur if you were already obligated to a real estate company that had listed your house previously.)

**NORTH PICKERING COMMUNITY
DEVELOPMENT PROJECT**



WHAT IF I DON'T LIKE THE PRICE I AM OFFERED?

You are free to negotiate further. However, you should bear in mind that your house has already been carefully appraised by an expert who has drawn on his experience in a private real-estate company. Your government negotiator, of course, will be fully aware of this during any discussion he has with you. You should also realize that the government's offer represents not the lowest price it believes you might accept but the price that an appraiser from the private sector believes is the fair market price.

WHAT IF I WANT A SECOND APPRAISAL?

If you feel it necessary to obtain second opinion about the market value of your property, you are entitled to engage anyone you choose. If you select a qualified appraiser, the government will pay any reasonable charges you incur in this way. Therefore, before engaging such a person, make sure he is properly qualified.

IF I AGREE TO SELL, HOW SOON MUST I MOVE?

The Ontario government hopes the majority of residents will not move out of the area but will stay on and ultimately relocate, to become part of the new community. With this objective in mind, an arrangement has been worked out to make it as attractive as possible for people to stay.

The sequence of events will work this way:

1. You agree to transfer the title of your property to the government and are paid the full purchase price.
2. Arrangements are made for you to remain in the house for two years, simply paying your property taxes and maintaining the premises in good condition.
3. After two years, the government will be in a position to tell you whether your house can remain as it is. If so, you will be entitled to buy it back at the price you were paid. If it is found that you must move, you will be given ample notice at that time. Either way, you will have lived rent-free for two years.

WHAT TERMS MUST I MEET IF I AGREE TO STAY ON?

If you are the owner-occupant of a single-family residence, all you must agree to do is to pay the property

taxes promptly and keep the property in good condition. Your agreement to do these two things will be set out duly in writing and will be considered as binding as any other legal contract. There will be no rent to pay.

WILL I BE FREE TO MAKE ALTERATIONS TO THE HOUSE IF I STAY ON UNDER SUCH AN AGREEMENT?

Minor alterations would certainly be in order. Major changes of any kind should be discussed beforehand with the government representatives.

WHAT IF THE GOVERNMENT FINDS IT DOESN'T NEED MY HOUSE AFTER ALL?

If such a decision is made — and this will occur, unquestionably, in some instances — you will be offered the chance to recover ownership at the same price you were paid initially. In other words, you will have had the use of the house and property, rent-free, throughout the time the government owned it.

WHAT HAPPENS IF I DO HAVE TO MOVE?

If your house is found to be incompatible with the North Pickering plan, the government will have to retain ownership and redevelop the property. In that event, you have several options open to you. You can, of course, buy a new house outside the area. If you do, the government will pay your moving expenses. Another option to consider is the possibility of acquiring a new house in the new North Pickering community. The government hopes that many people who are obliged to move from their present houses will choose this option. If you make that choice, you will be given special priority as a purchaser and you will, presumably, still have the money from the original transaction to pay for your new house. If there is a time lag between your moving date and the availability of the house you want, government representatives will see to it that you are comfortably housed elsewhere in the area until your own new house is available. Whichever of these choices and arrangements you wish to make, the government will pay your moving expenses.

WHAT ABOUT MOVING MY HOUSE TO ANOTHER LOCATION?

The Ontario government is willing to discuss such possibilities with any home owners interested in having their houses moved to other locations within the new community. Details have not yet been worked out, but a fair and equitable policy will be developed if there is a demand for such arrangements. Such moves of course would have to be physically practical and economically sound. The financial arrangement could be something as simple as having you refund the money you were paid and then receive, instead, an acceptable lot with your house fully established on it.

WHY IS THE GOVERNMENT OFFERING RENT-FREE ARRANGEMENTS FOR OWNER-OCCUPANTS WHO SELL?

To encourage residents to stay in their present homes as long as possible, the rent-free arrangement has been devised. It is designed to ensure that properties are meanwhile kept in good condition. The project team hopes people will stay on to help plan the new community and eventually to become part of it. The government believes you will find the rent-free arrangement attractive, since you can invest the money you have been paid for your house. This will give you good protection against price increases that may occur before you are ready to buy another house, either in Pickering area or elsewhere.

WHAT IF I WANT TO MOVE AWAY SOON AFTER I SELL?

You are, of course, free to do so, provided you give reasonable notice so that the government can find another occupant for your former house until such time as the property may be needed for redevelopment.

WHAT IF I AM ONLY RENTING — CAN I STAY ON?

Yes, you are welcome to stay for at least two years after your landlord has sold the property. The only change will be that you pay the rent to the government instead of to your previous landlord.

DO YOU HAVE ANY FURTHER QUESTIONS?

Members of the North Pickering Community Development Project Team will be pleased to answer further questions if they possibly can.

Please inquire at the team's Pickering office on Brock Road. Telephone: 942-7611

Regarding appraisals: Mr. Doug Sauder.

Regarding negotiations: Mr. Roy Booth.

NORTH PICKERING COMMUNITY DEVELOPMENT PROJECT NEWSLETTER

Vol. 1, no. 1

This is the first issue of a regular Newsletter being published for the North Pickering Community Development Project. It is designed to provide you with capsule information on the progress and planning of the new community to be developed in North Pickering as part of the Toronto Centred Region Plan and in conjunction with the new airport to be built by the Federal Government north-east of Metropolitan Toronto.

* * *

THE PROJECT TEAM

In this first issue we would like to introduce the members of the Project Team responsible for developing the planning process.

The Project Director is J.L. 'Larry' Forster. His Executive Assistant is Brian Hamill. Mr. Forster directs a team of highly qualified Planning Co-ordinators who are charged with co-ordinating the work of a variety of government agencies, consultants and other experts in the planning for the new community.

SERVICES PLANNING CO-ORDINATOR

A.C. 'Andy' Beattie, responsible for co-ordinating planning with respect to hard services such as hydro, telephone, water supply and sewage disposal. Prior to joining the team, Mr. Beattie was a member of the Plant Operations Branch of Ontario's Ministry of the Environment.

TRANSPORTATION PLANNING CO-ORDINATOR

J.F. 'Jim' Lucey is responsible for

co-ordinating all ground transportation studies relating to the development area. Mr. Lucey was formerly with the Systems Planning Branch of the Ministry of Transportation and Communication. Prior to taking up his present position he spent six months with the Regional Plan Development Branch to assist in the refinement of the Province's Toronto Centred Region Plan.

ENVIRONMENTAL PLANNING CO-ORDINATOR

Wm. M.C. 'Bill' Wilson will establish ways and means of implementing programs for preserving and enhancing significant natural and cultural elements of the development area. Mr. Wilson is a recent graduate of the University of Waterloo and holds an M.A. in Regional Planning and Resource Development.

MUNICIPAL GOVERNMENT & FINANCE CO-ORDINATOR

J.K. 'Jack' McAully will deal with all matters related to the administrative, organizational and financial structure of the new community. He will provide a point of contact with existing local governments on matters that may affect the new community. Mr. McAully was formerly with Municipal Advisory Services in the Department of Municipal Affairs.

CHIEF, PROPERTY ACQUISITION

H.H. 'Harry' Mitchell is responsible for co-ordinating all elements related to land acquisition now underway in the area. Previously, Mr.

Mitchell was Chief Appraiser in the Ministry of Transportation and Communications.

* * *

Since the new North Pickering community forms an integral part of the Toronto Centred Region Plan, continued liaison between the Project Team and the staff of the Toronto Centred Region group is required.

Cheuk Wong, Program Administrator, Toronto Centred Region Planning group serves as co-ordinator and liaison officer with the Project Team.

Additional staff, including a community design co-ordinator, a project co-ordinator and a social planning co-ordinator will be joining the team in the near future.

* * *

PROPERTY ACQUISITION

Progress continues to be made with respect to land acquisition for the site of the new community planned for North Pickering.

At press time 97 properties totaling 2,013 acres had been purchased at a total cost of \$9,587,496.

J.L. Forster, Project Director, says the process of negotiation to reach terms suitable to both parties is long and involved and the progress on land acquisition is on target.

"The bulk of our purchases to date involve vacant or farm land, but in the near future we will be actively negotiating with a number of home owners in the North Pickering area," he says.

Published by:
North Pickering Community
Development Project
3rd Floor - 880 Bay St.,
Toronto 5, Ontario



NORTH PICKERING COMMUNITY DEVELOPMENT PROJECT NEWSLETTER

Vol. 1, no. 2

ENVIRONMENT KEY FACTOR IN COMMUNITY PLANNING

For perhaps the first time in Canadian town planning experience, the full range of environmental considerations will play a key role in determining the very nature of the new Community to be created in North Pickering.

A basic objective of the North Pickering Team is to:

“ensure that planning and development of the North Pickering Community takes the fullest possible advantage of the existing systems and relationships in the natural and cultural environment while remaining in harmony with them.”

These environmental considerations include not only the natural factors – soil, water, trees, hills, valleys and wildlife – but the cultural and historical as well.

As such these additional objectives have been established:

- 1) to define the areas of the township commonly referred to as “hazard lands” where urban land uses would suffer damage by disrupting natural ecological systems.
- 2) to provide guidelines for location of particular types of physical urban land use.
- 3) to enhance those areas of the site deemed environmentally significant for the aesthetic, floral, faunal or aquatic characteristics as community-owned or protected areas for the enjoyment of all residents.
- 4) to provide an identity or “sense of place” for all residents of the North Pickering Community by fostering and maintaining the history and culture of the township and its immediate region.

The North Pickering Community Development Project group has undertaken a major study of the history of the area and its residents and, with federal involvement, has established the Joint Environmental Co-ordinating Committee. An Oral History of the area was undertaken this summer with two university students meeting local residents to gather, on tape, their recollections. This survey is interested in more than facts. It

hopes to capture the flavor of the speakers, and their type of speech, factors that often tell more about an area than any history text.

The Oral History is being prepared with the help of the Pickering Historical Society and the Ontario Archives. Material will be researched and classified, and held by the Archives in the Private Manuscript Section, stored as a single collection forever.

In addition, plans are underway to review and catalogue buildings and sites for historical architectural significance. Local factors will be deemed as important as provincial and national considerations.

Plans call for an initial survey by experts from the Canadian Inventory Historical Buildings group of the federal government. The normal terms of reference will be altered, and instead of reviewing only those buildings built prior to 1880, the CIHB staff will look at buildings constructed in North Pickering prior to 1914.

This information will be supplemented by historic data related to local settlement and growth to identify buildings and sites that are important to the area's history. A Settlement History Report on this subject is now underway.

As this initial work begins, other investigations are proceeding with relation to the natural environment with guidance from such bodies as the Metropolitan Toronto Region Conservation Authority. A Terrain Study is now in progress to provide a broad overview of the area's geological and hydro (water) make-up. This study will tell planners which areas are suitable for development and which are hazardous. The land will be divided into three segments:

- hazard lands – no development;
- caution lands – extensive study

before any development plans are considered;

- “go” areas – land where development is suitable, subject to other cultural and environmental considerations.

Base data collected here will be supplemented by a Wildlife Study as well as water quality and quantity management programs. Both are expected to be underway this fall.

Once all the initial information is gathered, it will be catalogued and an Impact Analysis prepared. This Analysis will be instrumental in the selection of areas where development can and should take place, and will also be used to establish settlement patterns as well as the location of roads and transit lines, services corridors and recreational areas:

RAY TUOKKO APPOINTED COMMUNITY LIAISON OFFICER

R.R. “Ray” Tuokko has assumed his duties as Community Liaison Officer for the North Pickering Project Team and will be responsible for providing the public with information on the project and its progress.

Prior to this appointment, Mr. Tuokko was Director of Urban Renewal for the City of Thunder Bay and was involved with the redevelopment of that city's downtown core as well as other community development projects.

Mr. Tuokko is available to answer any questions regarding the community project and can be reached by contacting the North Pickering Project, 3rd Floor, 880 Bay St., Toronto (phone 965-3031).

SOCIAL DEVELOPMENT CO-ORDINATOR APPOINTED

D.J. “John” Cornish has been appointed Social Development Co-ordinator for the Project. He will be responsible for identifying the social service needs within the new Community and for developing programs that will ensure opportunities for public participation in the planning and development of the Community.

Mr. Cornish is on loan from Ministry of Community and Social Services where he was Chief of Field Services in the Community Development Branch. Prior to that he served as field officer and administrator in the Citizenship Development Branch of the Secretary of State's office.

Published by:

North Pickering Community
Development Project
880 Bay St., Toronto 5 – Phone 965-3031
Pickering Office – Phone 965-7087



NORTH PICKERING COMMUNITY DEVELOPMENT PROJECT NEWSLETTER

Vol. 1 no. 3

PLANNING THE NEW COMMUNITY: THE FIRST STEPS

The basic first steps towards creating a new community at North Pickering have been taken. Now the Project Team is starting the organizational work, building the foundation on which the Community Master Plan will be developed. These will include:

- Finding ways that will ensure meaningful public participation in the planning process;
- Developing goals and objectives on such wide ranging factors as the variety and types of housing to be built and the type of industries to be introduced.
- Creating systems for positive involvement of provincial departments as well as affected municipalities.

The task is long and complicated because of the many studies that must be merged before decisions are made.

The Project Team is working with representatives from federal, municipal and other provincial agencies on such topics as:

- ground transportation within and without the site;
- rail line relocation;
- environmental and historical preservation;
- land acquisition and property management;
- general services including research into new technology — and its potential impact on the Community.

MASTER PLAN IN 1974

All this research leads to one thing — providing the background for the development of a Master Plan for the 25,000 acre site, including not only where roads and homes will be built, but where the town centre should be located, what areas must be retained as open space.

The North Pickering Team has also committed itself to citizen involvement in developing a Master Plan. The residents who live in the area now and who wish to stay will be able to contribute their views on the kind of community they want.

The Master Plan should be ready in about two years time and new homes are expected to be available for occupancy in mid-1977.

* * * * *

YOU WERE ASKING

Q: Why purchase 25,000 acres of land yet have no concrete town plan?

A: The building of a totally new community in North Pickering is a new concept for Ontario, perhaps Canada. It will not be a suburb. It will be a city created to meet the objectives of the Toronto Centred Region.

By purchasing all the land now, the government is saying, in effect, that it is committed to orderly growth and will, for example, protect lands of high recreational and conservational potential from the pressures of industrial and residential growth.

What is being created, in effect, is a land bank of 25,000 acres that will make reasonably-priced serviced lots available to the public.

The building of this new Community is a break with tradition and so too is the system for developing land. Ordinarily, the developer is faced with existing roads and properties which cannot be appropriated. This distorts planning.

By purchasing the entire site now, the Project Team will be able to develop a logical planning sequence, leaving undisturbed land that will be of major recreational benefit, building homes where most appropriate, and putting the town centre where it can best serve the people.

Published by:
North Pickering Community
Development Project
880 Bay St., Toronto 5 — Phone 965-3031
Pickering Office — Phone 965-7087

Where possible, local hamlets and individual home sites will be retained. Planning the location of transportation and services corridors for instance, must take this fact into consideration, before patterns for roads, transit lines, and hydro rights-of-way can be pinpointed.

If the design is to provide orderly growth while developing these systems total planning control is needed. It is for this reason only that the decision was taken to buy the entire 25,000 acre site.

* * *

Q: Why are you offering to let owners stay in their homes rent-free after they sell?

A: For two reasons.

Firstly, we want the present residents to stay; to help plan what the new community will look like, and to help us find out what is of local historical importance to the area.

Secondly, we realize that although we are buying all the homes, when the Master Plan is finally created, certain homes won't be required. It's going to take a couple of years to create the plan. Rather than have people worry about the final outcome, we feel it would be better to buy their homes now and let them live in them rent-free.

The money from the sale of the home can be invested and saved. Since there's no rent to pay, owner-residents can save that amount too. When the Master Plan is done and it is found that certain houses are compatible with this overall plan — an owner who decides to remain can then buy this house back at the same price the government paid. If he decides to move, he has the money he received for his place — plus interest — as well as the savings he made from living rent-free to buy another home elsewhere.



NORTH PICKERING COMMUNITY DEVELOPMENT PROJECT NEWSLETTER

Vol. 1 no. 4

THE FUTURE MAY BE ALMOST HERE

Imagine shopping by computer from your home . . . or working from your home instead of the office . . . or having your home heated by a small, insignificant fuel cell the size of a bread box.

Far-fetched? Perhaps. But at the North Pickering Project offices, investigations into such futuristic ideas are seriously underway. They won't be in the first homes built in 1977 - but by the year 2000 they may be.

At the moment, it's being handled through a sub-committee of the Utilities Co-ordinating Committee - a planning body that is concerned with anything that "moves either through pipes or over wires."

This sub-committee has a rather common title - The Sub-committee on Technological Innovation - but its work carries the romance that's always a part of every organization designed to look specifically into the future.

The committee's members represent the North Pickering Team, Ontario's Ministry of the Environment as well as Transportation and Communications, Ontario Hydro, Bell Canada, Consumer's Gas, the Oil Heating Association and the Cable TV Association.

According to Andy Beattie, Services Planning Co-ordinator, the objective of this group is to explore ideas from around the world.

"For perhaps the first time, utility services are going to have an input before design for planning gets underway. We want to make sure that we don't just do what's been done before. The reason is simply that we are planning a city for now and for the future. There's absolutely no reason it should be restricted to 1972 technology," he says.

ALL SERVICES INCLUDED

The services being reviewed include not only hydro, natural gas and oil systems but the entire question of waste disposal whether solid, liquid or gas.

"Sometimes what we learn is rather simple, but these discoveries can often be very helpful," Mr. Beattie says.

As an example, he referred to a study carried out with respect to a solid waste recycling program. The objective was to recycle paper, metal and glass waste by providing separate pick-ups.

"The attempt failed. It failed basically because it was discovered that in most apartments there is only one waste disposal chute. Even if the people wanted to participate as requested, it required that some person stand at the other end and physically separate each package. Even with the best of intentions, this was impossible.

"So the solution could be to build apartments or town house units, which will include more than one waste chute system. It can be that simple or much more complicated," Mr. Beattie said.

A more complicated proposition involved the possibility of eliminating the arduous task of reading water, hydro and gas meters.

"A big step forward was made when gas and hydro meters were put outside the home. It meant that whether people were home or not the meter could be read. Now there is an experimental system of computer scanning that can monitor all meters from the same source.

The information is then fed directly into the utilities office," the Services Co-ordinator commented.

CO-OPERATION IMPORTANT

"We don't know if it's practical, but it should be investigated now because it can turn out to be a great cost saver for utilities and ultimately for the consumer. It takes full co-operation from all the utilities, but unless they're all involved now, how can we expect co-operation later?"

The Committee's investigation is still in the early, formative stages and all members are looking for new ideas, new innovations that could possibly be use-

fully applied in planning for the new community.

"This project, by its very magnitude, offers unique opportunities to experiment with systems that can revolutionize urban living. It's really part of our job to take advantage of this fact," Mr. Beattie concluded.

QUESTIONS ABOUT THE PROJECT?

Contact Ray Tuokko

Ray Tuokko, Community Liaison Officer for the North Pickering Project is available to meet with area residents to answer questions regarding the Community Project.

If you have any questions, or would like to get more information, Mr. Tuokko is available to meet with you.

Arrangements can be made to meet at the site office located on Brock Rd., at the Project offices in Toronto or at any location convenient to you.

He can be contacted by calling 965-3031 to arrange an appointment.

YOU WERE ASKING

Q: What is the status of churches on the site?

A: As far as churches and church property are concerned, the basic approach regarding acquisition is that the North Pickering Team will acquire all land, but provisions regarding options to remain as well as options to buy back (if the land is not required) remain in force.

There have been statements made that only "one big church" is planned for the community. The facts are that the number and locations of any new churches to be built in the New Community will depend on what the people decide - not what planners decide.

The basic objective of the North Pickering Team is to design and build the community using the ideas and information supplied by the people and this intention holds for churches and other community services as well.

Published by:
North Pickering Community
Development Project
880 Bay St., Toronto 5 - Phone 965-3031
Pickering Office - Phone 965-7087



APPENDIX "C"

**COMMISSION INTO
NORTH PICKERING LAND SALES**

The Commission will resume its hearings on Tuesday, June 28, 1977 at 2:00 p.m. in its offices, Suite 1106, 18 King Street East, Toronto, to hear counsel for all parties concerning the matter, and any other matters which any counsel deems relevant.

L. W. Hiscoke
Registrar

Advertisement in "Globe & Mail" and Toronto "Star"
published on June 24 and 27, 1977, of
hearing on June 28, 1977.

APPENDIX "D"

IN THE MATTER OF THE PUBLIC INQUIRIES
ACT 1971 S.O. 1971, Ch. 49, AND IN THE
MATTER OF A ROYAL COMMISSION OF
INQUIRY INTO THE ACQUISITION BY THE
MINISTRY OF HOUSING OF CERTAIN LANDS
IN THE COMMUNITY OF NORTH PICKERING

NOTICE OF RESUMPTION OF HEARINGS

The former landowners, having instructed their counsel to take no further proceedings on their behalf before this Commission of Inquiry, the Commission must determine the manner in which it is to proceed to consider, recommend and report in relation to

- (1) the overall merits of claims for additional compensation of
 - (a) cases placed in dispute by the reply of the Minister of Housing of the 31st day of August, 1976, to the report of the Ombudsman on the North Pickering Project;
 - (b) any other cases handled by any of the five agents, Applicants in the motion instituted before the Divisional Court relative to allegations of misconduct contained in the said report of the Ombudsman;

such merits of claims shall include but not so as to limit the generality of the foregoing, all circumstances of each particular case including any misleading statements inadequate appraisals or misunderstandings based upon reasonable grounds in the circumstances of the particular case.

- (II) where entitlement to additional compensation has been recommended in the discretion of the Commission, to determine the amount, if any, of such additional compensation, having regard for such merits and taking into account any benefit or profit derived from the use of compensation paid on the original sale between the date of such sale and the date hereof.

- (III) The Commission shall also inquire into, consider and report in relation to what allegations of misconduct are made against

Terry Bortolotti
James Gilhespie
William Thompson
Joseph Kuzik
J.E. Spafford

in the report of the Ombudsman and as to whether or not such allegations, if any, are justified.

The Commission will resume its hearings at 2:00 p.m., June 28th, 1977, at the Commission Offices, Suite 1106, 11th Floor, 18 King St. E., Toronto, to hear counsel for all parties concerning this matter and any other matters which any counsel deems relevant.

Dated at Toronto, this 14th day of June, 1977.

Copies to:

Arthur E. Maloney, Esq., Q.C.,
J. Sopinka, Esq., Q.C.
Ian G. Scott, Esq., Q.C.
R.P. Armstrong. Esq.

L.W. Hiscoke,
Registrar.

APPENDIX "E"

**COMMISSION INTO NORTH PICKERING
LAND SALES**

The Commission will resume its hearings on Wednesday, August 3, 1977, at 11:00 a.m. in its offices, Suite 1106, 18 King Street East, Toronto, to consider, recommend and report in relation to the overall merits of claims for additional compensation of

- (a) cases placed in dispute by the reply of the Minister of Housing of the 31st day of August, 1976, to the report of the Ombudsman on the North Pickering Project;
- (b) any other cases handled by any of the five agents, Applicants in the motion instituted before the Divisional Court relative to allegations of misconduct contained in the said report of the Ombudsman, and
- (c) any other matter referred to it by Order-in-Council OC 2959/76 as amended by Order-in-Council OC 3545/76 and further amended by Order-in-Council OC 1389/77.

All interested parties are requested to attend. Those not attending in person or through counsel will not be entitled to any further notice of the proceedings before the Commission.

L. W. Hiscoke, Registrar

"Globe & Mail" July 13, 1977

**COMMISSION INTO
NORTH PICKERING
LAND SALES**

The Commission will resume its hearings on Wednesday, August 3, 1977, at 11:00 a.m. in its offices, Suite 1106, 18 King Street East, Toronto, to consider, recommend and report in relation to the overall merits of claims for additional compensation of

- (a) cases placed in dispute by the reply of the Minister of Housing of the 31st day of August, 1976, to the report of the Ombudsman on the North Pickering Project;
- (b) any other cases handled by any of the five agents, Applicants in the motion instituted before the Divisional Court relative to allegations of misconduct contained in the said report of the Ombudsman, and
- (c) any other matter referred to it by Order-in-Council OC 2959/76 as amended by Order-in-Council OC 3545/76 and further amended by Order-in-Council OC 1389/77.

All interested parties are requested to attend. Those not attending in person or through counsel will not be entitled to any further notice of the proceedings before the Commission.

L. W. Hiscoke, Registrar.

Toronto "Star" July 20, 1977

IN THE MATTER OF THE PUBLIC INQUIRIES
ACT 1971, S.O. 1971, Ch. 49

AND IN THE MATTER OF A COMMISSION OF
INQUIRY INTO THE ACQUISITION BY THE
MINISTRY OF HOUSING OF CERTAIN LANDS
IN THE COMMUNITY OF NORTH PICKERING

APPENDIX "F"

NOTICE OF RESUMPTION OF HEARINGS

Take notice that the Commission of Inquiry into the Acquisition by the Ministry of Housing of certain lands in the Community of North Pickering will resume its hearings at 10:00 a.m. on Monday, the 7th day of November, 1977 at the Commission offices, Suite 1106, 11th Floor, 18 King Street East, Toronto, to consider, recommend and report in relation to

- (I) the overall merits of claims for additional compensation of
 - (a) cases placed in dispute by the reply of the Minister of Housing of the 31st day of August, 1976, to the report of the Ombudsman on the North Pickering Project;
 - (b) any other cases handled by any of the five agents, Applicants in the motion instituted before the Divisional Court relative to allegations of misconduct contained in the said report of the Ombudsman;

such merits, of claims shall include but not so as to limit the generality of the foregoing, all circumstances of each particular case including any misleading statements, inadequate appraisals or misunderstandings based upon reasonable grounds in the circumstances of the particular case.

- (II) Where entitlement to additional compensation has been recommended in the discretion of the Commission, to determine the amount, if any, of such additional compensation, having regard for such merits and taking into account any benefit or profit derived from the use of compensation paid on the original sale between the date of such sale and the date hereof.
- (III) and also to inquire into, consider and report in relation to what allegations of misconduct are made against

Terry Bortolotti
James Gilhespie
William Thompson
Joseph Kuzik
J. E. Spafford

in the report of the Ombudsman and as to whether or not such allegations, if any, are justified.

And take further notice that on such day the Commission will commence to hear and determine the matters referred to it by Order-in-Council 2959/75. If you wish to be heard or present evidence, you must attend in person or by counsel at such hearing. If you fail to do so, the Commission will proceed in your absence.

Dated at Toronto, this 6th day of October, 1977.

L. W. Hiscocke

L. W. Hiscocke,
Registrar.

Copies to:

Arthur E. Maloney, Q.C.	E. Lombard
J. Sopinka, Q.C.	J. Ralston
I.G. Scott, Q.C.	M. Gregg
R.P. Armstrong	D. Diliddo
H.R. Hutchings	C. Cannata
S. Vlasaty	J. Aldorasi
R. (Fred) Ansell	L. Bryan
W. Brown	J. Kellner
D. Laforest	J. Marchment
G. Levett	W. Bayles
T. Desson	E. Gilpen
F. Kerr	J. Littlejohn
H. Dinsmore	B. Kalecki
R. Spittel	F. Gormek
G. Lightwood	S. Osterhaut
I. Halcombe	

APPENDIX "G"

**COMMISSION INTO
NORTH PICKERING
LAND SALES**

The Commission will resume its hearings on Monday, November 7, 1977, at 10:00 a.m., in its offices, Suite 1106, 18 King Street East, Toronto, to consider, recommend and report in relation to the overall merits of claims for additional compensation of

- (a) cases placed in dispute by the reply of the Minister of Housing of the 31st day of August, 1976, to the report of the Ombudsman on the North Pickering Project;
- (b) any other cases handled by any of the five agents, Applicants in the motion instituted before the Divisional Court relative to allegations of misconduct contained in the said report of the Ombudsman, and
- (c) what allegations of misconduct are made against the five agents named in Order-in-Council 2959/76 in the report of the Ombudsman and as to whether such allegations, if any, are justified.

Any person desiring to be heard or present evidence must attend in person or by counsel at such time. Failing such attendance, the Commission will proceed in your absence.

L. W. Hiscoke,
Registrar.

"Globe & Mail" October 14, 1977



APPENDIX "H"

11th Floor
18 King Street
Toronto Ontario
M5C 1C5

The Hon. J. F. Donnelly
Chairman
R. M. Grant, Q.C.
Col. G.P. Marriott
Commissioners
Leslie W. Hiscoke
Registrar

Commission
into
North Pickering Land Sales

October 6, 1977

Re Commission into North Pickering Land Sales

Dear Mr Maloney,

The Commission into North Pickering Land Sales has fixed November 7, 1977, at 10:00 a.m., at its offices at Suite 1106, 18 King Street East, Toronto, to proceed with the hearing of the matters referred to it by Order-in-Council 2959/76.

Enclosed is copy of notice served on the various parties.

One of the matters which we are required to determine is what allegations of misconduct are made against Terry Bortolotti, James Gilhespie, William Thompson, Joseph Kuzik and J.E. Spafford in your report of your opinion concerning the North Pickering Project to the Ministry of Housing, and as to whether or not such allegations, if any, are justified. These were questioned in the proceedings brought in the Divisional Court by the land agents in which the Ombudsman was the respondent.

At the hearing on January 24 last, counsel for the former land owners stated "My clients are making no allegations and have never made any allegations against any individual."

The Commission is of the opinion that all the facts on which any allegation against any of the agents was based are within your knowledge and available to you.

You are invited to attend at the hearing on November 7 next and take such part in the proceedings as you deem advisable.

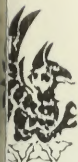
Yours very truly,

(L.W.Hiscoke, Registrar)

Arthur Maloney, Q.C.,
The Ombudsman/Ontario,
Suite 600, 65 Queen Street West,
TORONTO, Ont. M5H 2M5

APPENDIX "I"

ARTHUR MALONEY, Q.C.

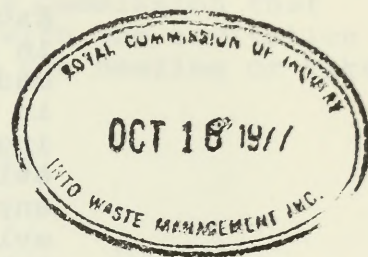


The Ombudsman | Ontario

SUITE 600
65 QUEEN STREET WEST, TORONTO, ONTARIO
M5H 2M5
TELEPHONE (416) 869-4000

October 17th, 1977

Mr. L. W. Hiscoke
Registrar
Office of the Ombudsman
11th Floor
18 King Street East
Toronto, Ontario
M5C 1C5



Dear Mr. Hiscoke:

Re: Commission into North
Pickering Land Sales

Thank you for your letter of October 6th.

I note it is the intention of the Commission to proceed with its hearings on November 7th next.

Insofar as the case of the five land acquisition agents is concerned, I agree with your assessment of the Commission's mandate. The Commission must first of all determine what allegations of misconduct are made in the report of the Ombudsman against these five gentlemen. This will necessitate a study of the report itself. If the Commission determines that allegations of misconduct have been made against Messrs. Bortolotti, Gillespie, Thompson, Kuzik and Spafford, the Commission is then required to conduct its own investigation for the purpose of determining whether or not the allegations are justified.

This investigation obviously should be wide-ranging and far-reaching if it is to carry out the intent both of myself and the Minister of Housing when we entered into the compromise that ultimately resulted in the order-in-council.

The limitations imposed on the Ombudsman under the Ombudsman Act prohibit him in law from complying with the suggestion that he attend at the Commission's hearing on November 7th. Your Commission's mandate must be discharged without participation in its proceedings by the Ombudsman.

Mr. L. W. Hiscoke
Page 2
October 17th, 1977

I draw your attention to certain provisions of The Ombudsman Act. They are as follows:

S.20(6)

Except on the trial of any person for perjury in respect of his sworn testimony, no statement made or answer given by that or any other person in the course of any inquiry by or any proceedings before the Ombudsman is admissible in evidence against any person in any court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

S.25(2)

The Ombudsman, and any such person as aforesaid, shall not be called to give evidence in any court or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions under this Act.

S.25(3)

Anything said or any information supplied or any document or thing produced by any person in the course of any inquiry by or proceedings before the Ombudsman under this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a Court.

Reference should also be made to Section 13 of The Ombudsman Act which provides as follows:

"(1) Before commencing the duties of this office, the Ombudsman shall take an oath, to be administered by the Speaker of the Assembly, that he will faithfully and impartially exercise the functions of his office and that he will not, except in accordance with subsection 2, disclose any information received by him as Ombudsman.

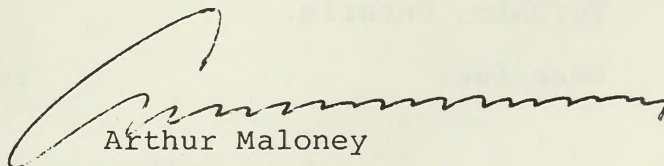
(2) The Ombudsman may disclose in any report made by him under this Act such matters as in his opinion ought to be disclosed in order to establish grounds for his conclusions and recommendations."

Mr. L. W. Hiscoke
Page 3
October 17th, 1977

I would be in breach of my oath of office if I were to make any disclosure beyond that which was made in my report and the report, of course, speaks for itself.

I therefore respectfully advise the Commission that I am prevented by Statute from complying with the invitation or request by the Commission to attend at the hearing or take any part in the proceedings whatsoever.

Yours faithfully,



Arthur Maloney

AM/mal



The Ombudsman | Ontario

APPENDIX "J"

ARTHUR MALONEY, Q.C.

SUITE 600
65 QUEEN STREET WEST, TORONTO, ON
M5H 2M5
TELEPHONE (416) 869-4000

October 25, 1977.

Mr. Ian G. Scott, Q.C.,
Messrs. Cameron, Brewin & Scott,
Barristers and Solicitors,
181 University Avenue,
Toronto, Ontario.

Dear Ian:

re Commission into North
Pickering Land Sales.

I am enclosing copy of a letter dated October 6, 1977, sent to me by Mr. L.W. Hiscoke, Registrar of the Commission set up to inquire into the North Pickering Land Sales.

You will notice in paragraph 4 Mr. Hiscoke attributes to you the following:

"My clients are making no allegations and have never made any allegations against any individual."

We have no transcript of these proceedings and I would be grateful if you would let me have your explanation.

Yours faithfully,

Arthur Maloney.

AM/D.
Enc.

Copy to Mr. Eric R. Murray, Q.C.

APPENDIX "K"

CAMERON, BREWIN & SCOTT

BARRISTERS AND SOLICITORS

A. J. P. CAMERON, Q.C. IAN G. SCOTT, Q.C.
JOSEPH C. LEMIRE J. ALICK RYDER
STEPHEN T. GOUDGE CHRIS G. PALIARE
IAN J. ROLAND STEPHEN M. GRANT

TELEPHONE (416) 364-6279

GUARDIAN OF CANADA TOWER
181 UNIVERSITY AVENUE
SUITE 402
TORONTO, ONTARIO
M5H 3M7

COUNSEL:
F. ANDREW BREWIN, Q.C., M.P.

October 28th, 1977

Arthur Maloney, Q.C.,
Ombudsman,
65 Queen Street West,
Toronto, Ontario.

Dear Mr. Maloney,

RE: Commission into North Pickering
Land Sales

Thank you for your letter dated
October 25, 1977 enclosing a copy of a letter received
by you from Mr. Hiscoke, Registrar of the Commission
into North Pickering Land Sales, in which he attributes
to me the following statement:

"My clients are making no allegations and have
never made any allegations against any individual."

If the purpose of Mr. Hiscoke's statement
is to suggest that a Counsel for the claimants did not
propose to rely on evidence that false or misleading
statements had been made to my clients by land acquisition
agents retained by the Government, it is false. In addition,
it is taken entirely out of context.

CAMERON, BREWIN & SCOTT

The Commission, as you know, required us to file detailed statements of complaint. I enclose the statement of complaint of Mr. and Mrs. T.J. Dinsmore as an example. You will note particularly in paragraph 5 our assertion that Mr. and Mrs. Dinsmore were induced to sell their property by false and misleading statements made inter alia by agents of the government. Those false and misleading statements were particularized. We were and in an appropriate Enquiry are prepared to lead evidence in support of that statement of complaint.

In addition, in outlining the nature of our case to the Commission I stated as follows:

"The first allegations and perhaps the easiest to deal with are the subjective allegations that are made by the Complainants: "A land acquisition agent came to my door and told me something which is not true and I was induced to make a voluntary sale on that account" and you (the Commission) will hear evidence of that from the Complainants."

Transcript, January 24, p. 29

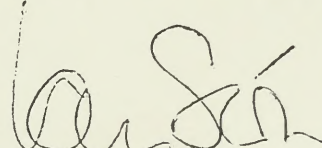
The statement which Mr. Hiscoke attributed to me arose in the following context. Mr. Sopinka acting for the land acquisition agents was concerned with the approach the Commission would take to the third function of the Enquiry; namely, "its obligation to report in relation to what allegations of misconduct are made against (those agents) in the Report of the Ombudsman . . .". I was at some pains to point out to the Commission of Enquiry that I had no authority to act for you in that or any other matter and that in addition, I had no precise knowledge of the information or evidence that was available

200883

CAMERON, BREWIN & SCOTT

to you when your Report was made. In that sense, the Complainants were not present at the Commission in order to "defend" the Ombudsman but were rather there to assert their claims of unfairness against the government and its agents. Mr. Sopinka's comments at page 65 of the transcript make it clear that he recognized that on behalf of the claimants we would be leading evidence to show that land acquisition agents retained by the Government made false and misleading statements to the claimants.

Yours very truly,



IAN SCOTT

IGS/jm
Encl.

